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MONTANA LEGISLATIVE HISTORY

Chapter 390 Session L 2017
Bill House ____ Senate 59

History and final status sheet X
Introduced bill X
Fiscal note 3
Third reading bill X
Final version of bill X

House Committee on Judiciary
Hearing date(s)* 2/16 3/10
____ ____
Executive action (vote) date(s)* 3/10
Comm. Report 3/10
Floor 2nd reading & vote 3/14
Floor 3rd reading & vote 3/15

Senate Committee on Judiciary
Hearing date(s)* 1/17 1/25
____ ____
Executive action (vote) date(s)* 1/25
Comm. Report 1/25
Floor 2nd reading & vote 1/30
Floor 3rd reading & vote 1/31

Conference or Free Conference Comm. X Yes ____ No
Hearing date(s)* 3/28; 4/5
Executive action (vote) date(s)* 4/5

* Includes minutes, exhibits, roll call, visitors register, and vote sheet if available.

Did this bill originate in an interim committee? ____ Yes X No
Committee ____ Report ____

NOTES: Requester: Commission on Sentencing

State Law Library of Montana

Compiled by: rg
Date: 4/2/2021

Bill Draft Number: LC0552
Bill Type - Number: SB 59
Short Title: Generally revise criminal justice laws
Primary Sponsor: Cynthia Wolken (D) SD 48
Chapter Number: 390

Bill Actions - Current Bill Progress: Became Law

Bill Action Count: 70

Action - Most Recent First	Date	Votes Yes	Votes No	Committee
Chapter Number Assigned	05/19/2017			
(S) Signed by Governor	05/19/2017			
(S) Transmitted to Governor	05/17/2017			
(H) Signed by Speaker	05/10/2017			
(S) Signed by President	05/04/2017			
(C) Printed - Enrolled Version Available	04/26/2017			
(S) Returned from Enrolling	04/25/2017			
(C) Printed - New Version Available	04/25/2017			
(S) Sent to Enrolling	04/24/2017			
(H) 3rd Reading Free Conference Committee Report Adopted	04/21/2017	90	10	
(H) Scheduled for 3rd Reading	04/21/2017			
(H) 2nd Reading Free Conference Committee Report Adopted	04/20/2017	89	11	
(H) Scheduled for 2nd Reading	04/20/2017			
(S) Revised Fiscal Note Printed	04/11/2017			
(S) Revised Fiscal Note Received	04/10/2017			
(S) 3rd Reading Free Conference Committee Report Adopted	04/08/2017	46	0	
(S) Scheduled for 3rd Reading	04/08/2017			
(S) 2nd Reading Free Conference Committee Report Adopted	04/07/2017	49	0	
(S) Scheduled for 2nd Reading	04/07/2017			
(S) Free Conference Committee Report Received	04/05/2017			(S) Free Conference
(H) Free Conference Committee Report Received	04/05/2017			
(S) Hearing	04/05/2017			(S) Free Conference
(S) Hearing Canceled	03/29/2017			(S) Free Conference
(S) Hearing	03/28/2017			(S) Free Conference
(H) Free Conference Committee Appointed	03/24/2017			

(S) Free Conference Committee Appointed	03/23/2017		(S) Free Conference
(S) 2nd Reading House Amendments Not Concurred	03/23/2017	44	5
(S) Scheduled for 2nd Reading	03/23/2017		
(S) Revised Fiscal Note Printed	03/21/2017		
(S) Revised Fiscal Note Received	03/16/2017		
(H) Returned to Senate with Amendments	03/15/2017		
(H) 3rd Reading Concurred	03/15/2017	95	4
(H) Scheduled for 3rd Reading	03/15/2017		
(H) 2nd Reading Concurred	03/14/2017	94	4
(H) Scheduled for 2nd Reading	03/14/2017		
(S) Revised Fiscal Note Requested	03/14/2017		
(C) Printed - New Version Available	03/10/2017		
(H) Committee Report--Bill Concurred as Amended	03/10/2017		(H) Judiciary
(H) Committee Executive Action--Bill Concurred as Amended	03/10/2017	19	0 (H) Judiciary
(H) Hearing	02/16/2017		(H) Judiciary
(H) First Reading	02/02/2017		
(H) Referred to Committee	02/02/2017		(H) Judiciary
(S) Transmitted to House	01/31/2017		
(S) 3rd Reading Passed	01/31/2017	45	3
(S) Scheduled for 3rd Reading	01/31/2017		
(S) 2nd Reading Passed	01/30/2017	46	3
(S) Scheduled for 2nd Reading	01/30/2017		
(S) Committee Report--Bill Passed	01/25/2017		(S) Judiciary
(S) Committee Executive Action--Bill Passed	01/25/2017	9	2 (S) Judiciary
(S) Hearing	01/17/2017		(S) Judiciary
(S) Fiscal Note Printed	01/06/2017		
(S) Fiscal Note Signed	01/04/2017		
(S) First Reading	01/02/2017		
(S) Fiscal Note Received	01/02/2017		
(S) Referred to Committee	12/29/2016		(S) Judiciary
(S) Fiscal Note Requested	12/16/2016		
(C) Introduced Bill Text Available Electronically	12/15/2016		
(S) Introduced	12/15/2016		
(C) Pre-Introduction Letter Sent	11/28/2016		
(C) Draft in Assembly	11/23/2016		
(C) Executive Director Review	11/23/2016		
(C) Bill Draft Text Available Electronically	11/23/2016		
(C) Draft in Final Drafter Review	11/23/2016		
(C) Draft in Input/Proofing	11/22/2016		
(C) Draft to Drafter - Edit Review [CMD]	11/22/2016		
(C) Draft in Edit	11/14/2016		
(C) Draft in Legal Review	11/10/2016		
(C) Draft to Requester for Review	11/10/2016		

(C) Fiscal Note Probable	11/10/2016
(C) Draft Request Received	10/20/2016

Sponsor, etc.

Sponsor, etc.	Last Name/Organization	First Name Mi
Requester	Commission on Sentencing	
Drafter	Weiss	Rachel
By Request Of	Commission on Sentencing	
Primary Sponsor	Wolken	Cynthia

Subjects

Description	Revenue/Approp.	Vote Majority Req.	Subject Code
Criminal Procedure (see also: Law Enforcement)		Simple	CRP
Judges and Justices (see also: Courts)		Simple	JUD
Law Enforcement (see also: Criminal Procedure)		Simple	LEN
Rule Making		Simple	RUL

Additional Bill Information

Fiscal Note Probable: Yes
Preintroduction Required: Y
Session Law Ch. Number: 390
DEADLINE
Category: General Bills
Transmittal Date: 03/01/2017
Return (with 2nd house amendments) Date: 04/06/2017

Section Effective Dates

Section(s)	Effective Date	Date Qualified
Sections 1, 2, 7, 8, and 10	01-JUL-17	
Sections 3-6, 9, and 11-16	19-MAY-17	

SENATE BILL NO. 59

INTRODUCED BY C. WOLKEN

BY REQUEST OF THE COMMISSION ON SENTENCING

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING CRIMINAL JUSTICE LAWS; REQUIRING THE BOARD OF CRIME CONTROL TO CREATE A PRETRIAL GRANT PROGRAM; REQUIRING THE BOARD OF CRIME CONTROL TO CREATE A PROSECUTION DIVERSION GRANT PROGRAM; GRANTING THE BOARD RULEMAKING AUTHORITY TO ADMINISTER THE PROGRAMS; ALLOWING A COURT TO USE INFORMATION FROM A PRETRIAL RISK ASSESSMENT TOOL WHEN DETERMINING WHETHER A DEFENDANT SHOULD BE RELEASED OR DETAINED; ELIMINATING THE REQUIREMENT THAT A JUDGE OR JUSTICE OF THE PEACE REPORT DRUG USERS TO THE COUNTY ATTORNEY; AMENDING SECTION 46-9-109, MCA; AND REPEALING SECTION 46-9-203, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Pretrial program -- rulemaking.** (1) Within the limits of available funds, the board of crime control shall develop and administer a pretrial grant program to encourage local adoption of:

(a) a validated pretrial risk assessment tool; and

(b) a dangerousness or lethality assessment for individuals charged with an offense of partner or family member assault.

(2) Grant funds may be used for pretrial services staff, to obtain assessment instruments, and to provide supervision of pretrial defendants. A county or a nonprofit organization contracting with a county to provide the pretrial services may be eligible for a grant.

(3) In administering the pretrial program, the board shall:

(a) identify priorities for funding services, activities, and criteria for the receipt of program funds;

(b) monitor the expenditure of funds by organizations receiving funds under this section;

(c) evaluate the effectiveness of services and activities under this section; and

(d) adopt rules necessary to implement this section.

(4) (a) Grants available under subsection (1) consist of state appropriations and federal funds received by the board for the purposes of administering the pretrial program or any funds received pursuant to subsection

(4)(b).

(b) The board may accept gifts, grants, and donations from other public or private sources, which must be used within the scope of this section.

NEW SECTION. **Section 2. Prosecution diversion program -- rulemaking.** (1) Within the limits of available funds, the board of crime control shall develop and administer a prosecution diversion grant program to encourage local adoption of prosecution diversion programs under 46-16-130.

(2) Grant funds may be used for staff, to provide supervision, or to contract for program services for defendants in the program. A county attorney or a nonprofit organization contracting with a county attorney may be eligible for a grant.

(3) In administering the prosecution diversion program, the board shall:

(a) identify priorities for funding services, activities, and criteria for the receipt of program funds;

(b) monitor the expenditure of funds by organizations receiving funds under this section;

(c) evaluate the effectiveness of services and activities under this section; and

(d) adopt rules necessary to implement this section.

(4) (a) Grants available under subsection (1) consist of state appropriations and federal funds received by the board for the purposes of administering the prosecution diversion program or any funds received pursuant to subsection (4)(b).

(b) The board may accept gifts, grants, and donations from other public or private sources, which must be used within the scope of this section.

Section 3. Section 46-9-109, MCA, is amended to read:

"46-9-109. Release or detention hearing. (1) The release or detention of the defendant must be determined immediately upon the defendant's initial appearance.

(2) In determining whether the defendant should be released or detained, the court may use a validated pretrial risk assessment tool and shall take into account the available information concerning:

(a) the nature and circumstances of the offense charged, including whether the offense involved the use of force or violence;

(b) the weight of the evidence against the defendant;

(c) the history and characteristics of the defendant, including:

(i) the defendant's character, physical and mental condition, family ties, employment, financial resources, length of residence in the community, community ties, past conduct, history relating to alcohol or drug abuse, criminal history, and record concerning the appearance at court proceedings; and

(ii) whether at the time of the current arrest or offense, the defendant was on probation, on parole, or on other release pending trial, sentencing, appeal, or completion of sentencing for an offense;

(d) the nature and seriousness of the danger to any person or the community that would be posed by the defendant's release; and

(e) the property available as collateral for the defendant's release to determine if it will reasonably ensure the appearance of the defendant as required.

(3) Upon the motion of any party or the court, a hearing may be held to determine whether bail is established in the appropriate amount or whether any other condition or restriction upon the defendant's release will reasonably ensure the appearance of the defendant and the safety of any person or the community."

NEW SECTION. **Section 4. Repealer.** The following section of the Montana Code Annotated is repealed:

46-9-203. Report to county attorney concerning drug users.

NEW SECTION. **Section 5. Codification instruction.** [Sections 1 and 2] are intended to be codified as an integral part of Title 44, chapter 4, part 3, and the provisions of Title 44, chapter 4, part 3, apply to [sections 1 and 2].

- END -

GOVERNOR'S OFFICE OF BUDGET AND PROGRAM PLANNING

Fiscal Note 2019 Biennium

Bill #	SB0059	**Title:**	Generally revise criminal justice laws
Primary Sponsor:	Wolken, Cynthia	**Status:**	As Introduced

☐Significant Local Gov Impact ☐Needs to be included in HB 2 ✓Technical Concerns

☐Included in the Executive Budget ☐Significant Long-Term Impacts ☐Dedicated Revenue Form Attached

FISCAL SUMMARY

	FY 2018 Difference	FY 2019 Difference	FY 2020 Difference	FY 2021 Difference
Expenditures:				
General Fund		** See Technical Notes		
Revenue:				
General Fund	$0	$0	$0	$0
Net Impact-General Fund Balance:	$0	$0	$0	$0

Description of fiscal impact: The fiscal impact is described in the technical notes.

FISCAL ANALYSIS

Technical Notes:

Montana Board of Crime Control

1. The Montana Board of Crime Control is the US Department of Justice State Administering Agency which allows the agency to access certain types of grant funding.
2. Section 1 of the bill indicates that the pretrial grant program should be developed and administered within the limits of available funds. There are no resources available within existing budgets to implement such a program, therefore no actions would be taken.
3. Section 2 of the bill indicates that the prosecution diversion grant program should be developed and administered within the limits of available funds. There are no resources available within existing budgets to implement such a program, therefore no actions would be taken.
4. The agency will pursue available federal grants for both programs. If federal grants were received to fund a grant program, or if the legislature were to appropriate general fund for the grant programs, the agency would need a 0.25 FTE program manager and a 0.25 FTE accountant per program with a combined salary and benefits cost of $44,304 per year.

Sponsor's Initials	*Date*	*Budget Director's Initials*	*Date*

MINUTES

MONTANA SENATE
65th LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: Chair Keith Regier, on January 17, 2017 at 8:00 A.M., in Room 303 Capitol

ROLL CALL

Members Present:

Sen. Keith Regier, Chair (R)
Sen. Jen Gross (D)
Sen. Steve Hinebauch (R)
Sen. Jedediah Hinkle (R)
Sen. Margaret (Margie) MacDonald (D)
Sen. Mary Moe (D)
Sen. Diane Sands (D)
Sen. Nels Swandal (R)
Sen. Chas Vincent (R)

Members Excused: Sen. Jennifer Fielder, Vice Chair (R)
Sen. Scott Sales (R)

Members Absent: None

Staff Present: Julianne Burkhardt, Legislative Branch
Pam Schindler, Committee Secretary

Audio Committees: These minutes are in outline form only. They provide a list of participants and a record of official action taken by the committee. The link to the audio recording of the meeting is available on the Legislative Branch website.

Committee Business Summary:

Hearing & Date Posted:	SB 59, 1/9/2017; SB 60, 1/9/2017; SB 61, 1/9/2017; SB 63, 1/9/2017; SB 64, 1/9/2017
Executive Action:	SB 90-Do Pass As Amended

00:00:30 Chairman Regier

HEARING ON SB 59

Opening Statement by Sponsor:

00:01:55 Sen. Cynthia Wolken (D), SD 48, opened the hearing on SB 59, Generally revise criminal justice laws.
EXHIBIT(jus12a01)

Proponents' Testimony:

00:08:38 Kris Hansen, member, Montana Commission on Sentencing
EXHIBIT(jus12a02)

00:13:19 Deb Matteucci, director, Montana Board of Crime Control
00:14:49 Carl Reynolds, senior legal counsel, Council on State Government Justice Center (CSGJC)
EXHIBIT(jus12a03)

00:17:35 Sheryl Wood, Montana Association of Counties
00:20:07 Mark Murphy, Montana County Attorneys Association
00:21:39 Steve Cape, Montana Coalition for Safety and Justice
00:22:12 Robin Turner, Montana Coalition Against Domestic and Sexual Violence
00:23:06 John Wilkinson, chairman, Lewis and Clark Advisory Council on Mental Health; member, Citizens Advisory Council for Lewis and Clark County Jail
00:27:19 S. K. Rossi, ACLU/Montana

Opponents' Testimony:

None

Informational Testimony:

00:28:50 Adrianne Slaughter, Montana Department of Corrections (DOC)

Questions from Committee Members and Responses:

00:29:15 Sen. Sands
00:29:25 Ms. Slaughter, DOC
00:31:09 Sen. Moe
00:32:04 Mr. Reynolds, CSGJC
00:33:22 Chairman Regier
00:33:43 Sen. Wolken

Closing by Sponsor:

00:35:19 Sen. Wolken

Montana State Legislature

2017 Session

Exhibit: 1

This exhibit is a booklet entitled:

Montana Department of Corrections

...making our communities safer

2017 Biennial Report

The cover and the table of content have been scanned to aid you in your research.

The original exhibit is on file at the Montana Historical Society and may be viewed there.

Montana Historical Society Archives
225 N. Roberts
Helena MT 59620-1201
2017 Legislative Scanner Susie Hamilton

SENATE JUDICIARY
Exhibit No. 1
Date: 1/17/17
Bill No. SB59

Montana Department of Corrections

...making our communities safer

2017 Biennial Report

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SENATE JUDICIARY
Exhibit No. 2
Date: 1/17/17
Bill No. SB59

1/17/17

Chairman Regier,

I apologize I am unable to attend the hearing this morning. I submit this as a very brief assessment of SB's 59, 60, 61, 63, & 64.

As a member of the Sentencing Commission, I feel I have valuable information I could provide the committee with in terms of the impetus for these bills, but I will shorten my input to the following and inform the members of your committee that I would be happy to speak with them about the details at their convenience.

SB's 59 & 60: These bills generally address the jail population problem at the county level. Currently, no real standards exist for which criminal offenders should reasonably be detained in the county jail pending their trial, versus which alleged offenders would do fine under supervision or released on their own recognizance in the community. I support both of these measures as tools for counties.

SB 61: I don't support this legislation.

SB 63: This bill primarily addressed the process used for revocations of sentences for bad behavior and for terminating sentences for good behavior. The revocation process eats up tons of judge time and tons of county time. The bill also address the scope of probation officers' authority to quickly sanction minor violations rather than mandating return to the county jail for minor issues bettered handled immediately. I strongly support this bill.

SB64: The Board of Pardons and Parole was one of two issues addressed by the sentencing commission that received the most public comment and participation. No matter who was speaking, be it members of the public, or members of law enforcement, the universal sentiment is that the Board's proceedings seem to have very little structure, are arbitrary, and have sometimes lifelong implications for inmates. Of all the bills, if you only chose 1, this would be the one I would recommend.

Again, I apologize I cannot be before you today.

Former Senator Kris Hansen

Senate Bill 59 - Generally revise criminal justice laws

Justice Reinvestment in Montana

Senate Bill 59 is part of a package of bills supported by the Montana Commission on Sentencing that together avert growth in prison and supervision populations, increase public safety, reduce recidivism, and provide tools to counties to ease pressures on jail populations. The policy framework in these bills is estimated to avert forecasted growth in Montana's prison population and avert $69 million in future costs.

Senate Bill 59 relieves population pressures on county jails, increases public safety, and reduces recidivism by:

- Establishing a pretrial services grant program to incentivize counties to adopt a pretrial risk assessment tool and provide supervision for higher-risk pretrial defendants.
- Establishing a grant program to advance the development and expansion of diversion programs, including deferred prosecution programs.
- Allowing the court to use information from a pretrial risk assessment tool when determining release or detention and eliminating the requirement judges report drug users to the county attorney.
- Granting the Board of Crime Control rulemaking authority to administer grant programs.

Rationale

Montana's jail population rose 67 percent between 2011 and 2013, and in 2013 Montana had the highest jail incarceration rate among its neighboring states.[1] Local criminal justice stakeholders identify the pretrial population as a significant component of jail populations.[2] Substance use also presents a growing challenge for Montana's criminal justice system, and between FY2009 and FY2015, arrests for drug offenses went up 62 percent.[3]

This bill creates two match grant programs for counties. It creates a pretrial grant program to incentivize counties to adopt a pretrial risk assessment tool for pretrial defendants, to conduct a dangerousness and/or lethality assessment for people charged with domestic violence offenses, and to provide monitoring and supervision of higher-risk pretrial defendants. It also establishes a diversion grant program to advance the development and expansion of diversion programs, including deferred prosecution programs for arrests for drug offenses.

Conducting pretrial risk assessments enables counties to release low-risk defendants who do not need to be detained. Providing pretrial supervision allows counties to supervise high-risk defendants and connect them to treatment and programs. Requiring a dangerousness and/or lethality assessment for people charged with domestic violence offenses gives judges the information they need to mandate supervision of high-risk domestic violence defendants upon their release. By helping counties adopt a

[1] Bureau of Justice Statistics, "Census of Jails: Populations Changes, 1999–2013" (Washington, DC : USDOJ, 2015). The 2013 jail incarceration rates of neighboring states were as follow: Colorado (290), Idaho (280), Minnesota (150), Nebraska (240), North Dakota (220), South Dakota (260), Utah (350), and Wyoming (320).

[2] CSG Justice Center analysis of Montana Department of Justice arrests data, FY2009–FY2015.

[3] CSG Justice Center analysis of Montana Department of Justice arrests data, FY2009-2015.

Senate Bill 59 continued

pretrial risk assessment tool and provide pretrial supervision, the state will improve public safety and aid counties in averting spending associated with growth in jail populations.

Diversion programs allow local criminal justice practitioners such as county attorneys to connect people who have substance use or mental health issues to treatment and programs and encourage early resolution of cases. Local practitioners may use funds provided by this program to hire a coordinator and partner with a community treatment provider to support people with behavioral health issues. By diverting people to high-quality treatment and programs, the state can also avoid spending associated with prosecuting, processing, incarcerating, and supervising people who would benefit most from participating in behavioral health treatment and programs in lieu of incarceration.

BUSINESS REPORT

MONTANA SENATE
65th LEGISLATURE - REGULAR SESSION

SENATE JUDICIARY COMMITTEE

Date: Tuesday, January 17, 2017 **Time:** 8:00 A.M.
Place: Capitol **Room:** 303

BILLS and RESOLUTIONS HEARD:

SB 59 - Generally revise criminal justice laws - Sen. Cynthia Wolken
SB 60 - Generally revise criminal justice laws - Sen. Cynthia Wolken
SB 61 - Require certain facilities providing behavioral health srvcs to be lic by DPHHS - Sen. Cynthia Wolken
SB 63 - Revise laws related to supervision of offenders/defendants - Sen. Cynthia Wolken
SB 64 - Generally revise laws related to the board of pardons and parole - Sen. Cynthia Wolken

EXECUTIVE ACTION TAKEN:

SB 90-Do Pass As Amended

Comments:

SEN. Keith Regier, Chair

MONTANA STATE SENATE

2017 JUDICIARY COMMITTEE

ROLL CALL

DATE: 1/17/17

NAME	PRESENT	ABSENT/ EXCUSED
CHAIRMAN, SENATOR KEITH REGIER	✓	
VICE CHAIRMAN, SENATOR JENNIFER FIELDER		✓
VICE CHAIRMAN, SENATOR DIANE SANDS	✓	
SENATOR STEVE HINEBAUCH	✓	
SENATOR JEDEDIAH HINKLE	✓	
SENATOR CHAS VINCENT	✓	
SENATOR NELS SWANDAL	✓	
SENATOR MARY SHEEHY MOE	✓	
SENATOR MARGARET MacDONALD	✓	
SENATOR JEN GROSS	✓	
PRESIDENT SCOTT SALES		✓

MONTANA STATE SENATE
Visitors Register
SENATE JUDICIARY COMMITTEE

Tuesday, January 17, 2017
SB 59 - Generally revise criminal justice laws
Sponsor: **Sen. Cynthia Wolken**

PLEASE PRINT

Name	Representing	Support	Oppose	Info
Jon Sonntag	self	X		
Dan Matthews	MCBCC	X		
Cal Reynolds	CSG Justice Center	X		
Sheryl Wood	MACo	X		
Cynthia Wolken	Sent. Wolken	X		
Sarah Rossi	ACLU	X		
Sarah Cyr	MT Coalition to Stop	X		
Mike Murphy	MCLA	X		
John Wilkinson	Lewis & Clark Co LAC	X		
Dr. Gail Marquis	MAP	X		
Robin Turner	MCADSV			

Please leave prepared testimony with Secretary. Witness Statement forms are available if you care to submit written testimony.

MINUTES

MONTANA SENATE
65th LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: Chair Keith Regier, on January 25, 2017 at 9:00 AM, in Room 303 Capitol

ROLL CALL

Members Present:

Sen. Keith Regier, Chair (R)
Sen. Jennifer Fielder, Vice Chair (R)
Sen. Jen Gross (D)
Sen. Steve Hinebauch (R)
Sen. Jedediah Hinkle (R)
Sen. Margaret (Margie) MacDonald (D)
Sen. Mary Moe (D)
Sen. Scott Sales (R)
Sen. Diane Sands (D)
Sen. Nels Swandal (R)
Sen. Chas Vincent (R)

Members Excused: None

Members Absent: None

Staff Present: Todd Everts, Legislative Branch
Pam Schindler, Committee Secretary

Audio Committees: These minutes are in outline form only. They provide a list of participants and a record of official action taken by the committee. The link to the audio recording of the meeting is available on the Legislative Branch website.

Committee Business Summary:

Hearing & Date Posted:	SB 118, 1/18/2017; SB 122, 1/18/2017; SB 123, 1/18/2017
Executive Action:	SB 61-Tabled, SB 66-Tabled, SB 122-Tabled, SJ 4-Tabled, SB 45-Do Pass, SB 59-Do Pass, SB 60-Do Pass, SB 63-Do Pass As Amended, SB 65-Do Pass As Amended, SB 67-Do Pass, SB 71-Do Pass, SB 107-Do Pass, SJ 3-Be Adopted, SB 64-Do Pass As Amended-Motion Withdrawn

Questions from Committee Members and Responses:

00:42:06 Sen. Fielder
00:42:33 Sen. Swandal

Closing by Sponsor:

00:43:41 Sen. Swandal

EXECUTIVE ACTION ON SB 45

00:46:17 **Motion**: Sen. MacDonald moved that **SB 45 DO PASS**.

Discussion:

00:46:35 Sen. Swandal

00:46:56 **Vote**: Motion carried unanimously by roll call vote.

EXECUTIVE ACTION ON SB 59

00:47:48 **Motion**: Sen. Fielder moved that **SB 59 DO PASS**.

Discussion:

00:48:06 Sen. Swandal

Sen. MacDonald left the room.

00:48:38 **Vote**: Motion carried 9-2 by roll call vote with Sen. Hinebauch and Sen. Sales voting no. Sen. MacDonald voted by proxy.

Sen. MacDonald returned to the room.

EXECUTIVE ACTION ON SB 60

00:49:39 **Motion**: Sen. Fielder moved that **SB 60 DO PASS**.

Discussion:

00:49:51 Sen. Swandal
00:50:46 Sen. Sands

00:51:14 **Vote**: Motion carried 7-4 by roll call vote with Sen. Hinebauch, Sen. Hinkle, Sen. Sales and Sen. Vincent voting no.

Montana State Legislature

2017 Session

Additional Documents include:

- ***Business Report**
- ***Roll Call(attendance)**
- ***Standing Committee Reports,**
- ***Table Bills, Fiscal reports etc.**
- ***Roll Call Votes**
- ***Witness Statements**
- ***Informational items**
- ***Visitor Registrations**
- ***Any other Documents;**
  - **~Petitions if any?**
  - **~Any and all material handed in after the meeting end.**

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BUSINESS REPORT

MONTANA SENATE
65th LEGISLATURE - REGULAR SESSION

SENATE JUDICIARY COMMITTEE

Date: Wednesday, January 25, 2017 **Time:** 9:00 AM
Place: Capitol **Room:** 303

BILLS and RESOLUTIONS HEARD:

SB 118 - Provide for uniform act regarding fiduciary access to digital assets - Sen. Mary McNally
SB 122 - Generally revise criminal justice laws - Sen. Margaret (Margie) MacDonald
SB 123 - Revise marriage license laws to allow nonresidents to get licenses in any county - Sen. Nels Swandal

EXECUTIVE ACTION TAKEN:

SB 61-Tabled
SB 66-Tabled
SB 122-Tabled
SJ 4-Tabled
SB 45-Do Pass
SB 59-Do Pass
SB 60-Do Pass
SB 63-Do Pass As Amended
SB 65-Do Pass As Amended
Sb 67-Do Pass
SB 71-Do Pass
SB 107-Do Pass
SJ 3-Be Adopted
SB 64-Do Pass As Amended-Motion Withdrawn

Comments:

Keith Regier
SEN. Keith Regier, Chair

SENATE STANDING COMMITTEE REPORT

Mr. President:

We, your committee on **Judiciary** report that **Senate Bill 59** (first reading copy -- white) **do pass**.

Signed: _____
Senator Keith Regier, Chair

- END -

Committee Vote:
Yes 9, No 2
Fiscal Note Required _X_

SB0059001SC.sjc

SENATE PROXY

I, Senator MARGARET MacDONALD hereby authorize Senator _____ to vote my proxy before the Senate JUDICIARY meeting held on 1/25/17, 2017.

Senator Signature (Sen. MacDONALD) 1/25/17 Date

Said authorization is as follows: *(mark only one)*

- [X] All votes, including amendments.
- [ ] All votes as directed below on the listed bills, and all other votes.
- [ ] Votes only as directed below.

Bill No./Amendment No.	Aye	No

MONTANA STATE SENATE
ROLL CALL VOTE
2017 JUDICIARY COMMITTEE

DATE 1/25/17 BILL NO SB59 MOTION NO. 1

MOTION: Do Pass

NAME	AYE	NO	If Proxy Vote, check here & include signed Proxy Form with minutes
VICE CHAIRMAN, SENATOR JENNIFER FIELDER	—		
SENATOR CHAS VINCENT	—		
SENATOR DIANE SANDS	—		
SENATOR JEDEDIAH HINKLE	—		
SENATOR MARY SHEEHY MOE	—		
SENATOR NELS SWANDAL	—		
SENATOR MARGARET MacDONALD	—		—
SENATOR JEN GROSS	—		
PRESIDENT SCOTT SALES		—	
SENATOR STEVE HINEBAUCH		—	
CHAIRMAN, SENATOR KEITH REGIER	—		

9/2

MONTANA STATE SENATE

2017 JUDICIARY COMMITTEE

ROLL CALL

DATE: 1/25/17

NAME	PRESENT	ABSENT/ EXCUSED
CHAIRMAN, SENATOR KEITH REGIER		
VICE CHAIRMAN, SENATOR JENNIFER FIELDER		
VICE CHAIRMAN, SENATOR DIANE SANDS		
SENATOR STEVE HINEBAUCH		
SENATOR JEDEDIAH HINKLE		
SENATOR CHAS VINCENT		
SENATOR NELS SWANDAL		
SENATOR MARY SHEEHY MOE		
SENATOR MARGARET MacDONALD		
SENATOR JEN GROSS		
PRESIDENT SCOTT SALES		

SENATE BILL NO. 59

INTRODUCED BY C. WOLKEN

BY REQUEST OF THE COMMISSION ON SENTENCING

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING CRIMINAL JUSTICE LAWS; REQUIRING THE BOARD OF CRIME CONTROL TO CREATE A PRETRIAL GRANT PROGRAM; REQUIRING THE BOARD OF CRIME CONTROL TO CREATE A PROSECUTION DIVERSION GRANT PROGRAM; GRANTING THE BOARD RULEMAKING AUTHORITY TO ADMINISTER THE PROGRAMS; ALLOWING A COURT TO USE INFORMATION FROM A PRETRIAL RISK ASSESSMENT TOOL WHEN DETERMINING WHETHER A DEFENDANT SHOULD BE RELEASED OR DETAINED; CREATING AN OVERSIGHT COUNCIL TO MONITOR AND REPORT ON THE EFFECTS OF CRIMINAL JUSTICE LEGISLATION; REQUIRING THE QUALITY ASSURANCE UNIT OF THE DEPARTMENT OF CORRECTIONS TO ADOPT AN EVALUATION TOOL AND CONDUCT PROGRAM EVALUATIONS; REQUIRING THE DEPARTMENT TO ADOPT AND MAINTAIN AN INCENTIVES AND INTERVENTIONS GRID TO GUIDE COMMUNITY SUPERVISION OF OFFENDERS; ELIMINATING THE REQUIREMENT THAT A JUDGE OR JUSTICE OF THE PEACE REPORT DRUG USERS TO THE COUNTY ATTORNEY; PROVIDING AN APPROPRIATION; AMENDING SECTION 46-9-109, MCA; ~~AND~~ REPEALING SECTION 46-9-203, MCA; PROVIDING FOR CONTINGENT VOIDNESS; AND PROVIDING EFFECTIVE DATES AND A TERMINATION DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Pretrial program -- rulemaking.** (1) Within the limits of available funds, the board of crime control shall develop and administer a pretrial grant program to encourage local adoption of:

(a) a validated pretrial risk assessment tool; and

(b) a dangerousness or lethality assessment for individuals charged with an offense of partner or family member assault.

(2) Grant funds may be used for pretrial services staff, to obtain assessment instruments, and to provide supervision of pretrial defendants. A county or a nonprofit organization contracting with a county to provide the pretrial services may be eligible for a grant.

(3) In administering the pretrial program, the board shall:

(a) identify priorities for funding services, activities, and criteria for the receipt of program funds;

(b) monitor the expenditure of funds by organizations receiving funds under this section;

(c) evaluate the effectiveness of services and activities under this section; and

(d) adopt rules necessary to implement this section.

(4) (a) Grants available under subsection (1) consist of state appropriations and federal funds received by the board for the purposes of administering the pretrial program or any funds received pursuant to subsection (4)(b).

(b) The board may accept gifts, grants, and donations from other public or private sources, which must be used within the scope of this section.

NEW SECTION. **Section 2. Prosecution diversion program -- rulemaking.** (1) Within the limits of available funds, the board of crime control shall develop and administer a prosecution diversion grant program to encourage local adoption of prosecution diversion programs under 46-16-130.

(2) Grant funds may be used for staff, to provide supervision, or to contract for program services for defendants in the program. A county attorney or a nonprofit organization contracting with a county attorney may be eligible for a grant.

(3) In administering the prosecution diversion program, the board shall:

(a) identify priorities for funding services, activities, and criteria for the receipt of program funds;

(b) monitor the expenditure of funds by organizations receiving funds under this section;

(c) evaluate the effectiveness of services and activities under this section; and

(d) adopt rules necessary to implement this section.

(4) (a) Grants available under subsection (1) consist of state appropriations and federal funds received by the board for the purposes of administering the prosecution diversion program or any funds received pursuant to subsection (4)(b).

(b) The board may accept gifts, grants, and donations from other public or private sources, which must be used within the scope of this section.

NEW SECTION. **SECTION 3. MONTANA CRIMINAL JUSTICE OVERSIGHT COUNCIL -- DUTIES -- MEMBERSHIP.** (1) THERE IS A MONTANA CRIMINAL JUSTICE OVERSIGHT COUNCIL. THE COUNCIL CONSISTS OF 12 MEMBERS AS FOLLOWS:

(A) ONE MEMBER OF THE HOUSE OF REPRESENTATIVES SELECTED BY THE SPEAKER OF THE HOUSE AND ONE

MEMBER OF THE SENATE SELECTED BY THE PRESIDENT OF THE SENATE. THE LEGISLATIVE MEMBERS MUST BE SELECTED IN CONSULTATION WITH THE MINORITY LEADERS AND MAY NOT BE OF THE SAME POLITICAL PARTY.

(B) ONE MEMBER SELECTED BY THE CHIEF JUSTICE OF THE MONTANA SUPREME COURT;

(C) THE DIRECTOR OF THE DEPARTMENT OF CORRECTIONS OR THE DIRECTOR'S DESIGNEE;

(D) AN EMPLOYEE OF THE DEPARTMENT OF CORRECTIONS SELECTED BY THE DIRECTOR WHO HAS EXPERTISE IN DATA COLLECTION AND REPORTING;

(E) ONE MEMBER SELECTED BY THE DIRECTOR OF THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES WHO HAS EXPERTISE IN BEHAVIORAL HEALTH TREATMENT SERVICES;

(F) THE EXECUTIVE DIRECTOR OF THE BOARD OF CRIME CONTROL OR THE DIRECTOR'S DESIGNEE;

(G) A COUNTY SHERIFF APPOINTED BY THE ATTORNEY GENERAL; AND

(H) THE FOLLOWING INDIVIDUALS APPOINTED BY THE GOVERNOR:

(I) A MEMBER OF A STATE-RECOGNIZED OR FEDERALLY RECOGNIZED INDIAN TRIBE LOCATED WITHIN THE BOUNDARIES OF THE STATE OF MONTANA WHO HAS EXPERTISE IN CRIMINAL JUSTICE;

(II) ONE MEMBER OF THE BOARD OF PARDONS AND PAROLE;

(III) ONE REPRESENTATIVE OF CRIME VICTIMS; AND

(IV) ONE REPRESENTATIVE OF A COMMUNITY CORRECTIONS FACILITY, TREATMENT FACILITY, OR PRERELEASE CENTER.

(2) THE DIRECTOR OF THE DEPARTMENT OF CORRECTIONS OR THE DIRECTOR'S DESIGNEE SHALL SERVE AS PRESIDING OFFICER.

(3) THE COUNCIL SHALL:

(A) REVIEW THE RECOMMENDATIONS OF THE COMMISSION ON SENTENCING ESTABLISHED IN CHAPTER 343, LAWS OF 2015, AND OVERSEE IMPLEMENTATION OF AND COMPLIANCE WITH ANY LEGISLATION RESULTING FROM THOSE RECOMMENDATIONS;

(B) RECEIVE AND ANALYZE DATA COLLECTED BY AGENCIES AND ENTITIES CHARGED WITH IMPLEMENTING THE RECOMMENDATIONS OF THE COMMISSION ON SENTENCING AND THAT ARE COLLECTING DATA DURING THE IMPLEMENTATION AND MANAGEMENT OF SPECIFIC RECOMMENDATIONS;

(C) ASSESS OUTCOMES FROM THE RECOMMENDATIONS THE COMMISSION ON SENTENCING HAS MADE AND CORRESPONDING CRIMINAL JUSTICE REFORMS;

(D) REQUEST, RECEIVE, AND REVIEW DATA AND REPORT ON PERFORMANCE OUTCOME DATA RELATING TO CRIMINAL JUSTICE REFORM; AND

(E) RECEIVE REPORTS REQUIRED BY [SECTION 4] TO BE PRODUCED BY THE DEPARTMENT OF CORRECTIONS.

(4) THE COUNCIL SHALL SUBMIT BY SEPTEMBER 1 OF EACH EVEN-NUMBERED YEAR A BIENNIAL REPORT TO THE GOVERNOR AND LEGISLATURE, AS PROVIDED IN 5-11-210. THE REPORT MUST INCLUDE:

(A) A DESCRIPTION OF THE COUNCIL'S PROCEEDINGS SINCE THE PREVIOUS REPORT;

(B) A SUMMARY OF SAVINGS FROM CRIMINAL JUSTICE REFORMS AND RECOMMENDATIONS FOR HOW THE SAVINGS SHOULD BE REINVESTED TO REDUCE RECIDIVISM; AND

(C) A DESCRIPTION OF PERFORMANCE MEASURES AND OUTCOMES RELATED TO CRIMINAL JUSTICE REFORMS.

(5) THE COUNCIL MAY APPOINT A WORKING GROUP TO TRACK IMPLEMENTATION, EVALUATE COMPLIANCE WITH ANY LEGISLATION RESULTING FROM CRIMINAL JUSTICE REFORMS, AND PERFORM OTHER DETAILED ANALYSIS AS DIRECTED BY THE COUNCIL. IF APPOINTED, THE WORKING GROUP SHALL MEET REGULARLY AND REPORT TO THE COUNCIL AS THE COUNCIL REQUIRES. THE WORKING GROUP MAY INCLUDE REPRESENTATIVES OF CRIMINAL JUSTICE AGENCIES AND KEY CONSTITUENCIES THAT ARE NOT MEMBERS OF THE COUNCIL.

(6) THE COUNCIL MAY REQUEST LEGISLATION TO ENACT CHANGES TO THE STATE'S CRIMINAL JUSTICE SYSTEM THAT THE COUNCIL FINDS NECESSARY.

(7) THE JUDICIAL BRANCH, THE DEPARTMENT OF CORRECTIONS, THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES, THE BOARD OF PARDONS AND PAROLE, AND THE LEGISLATIVE SERVICES AND FISCAL DIVISIONS SHALL PROVIDE DATA AND INFORMATION AS REQUESTED BY THE COUNCIL.

(8) APPOINTMENTS MADE UNDER SUBSECTION (1) MUST BE MADE WITHIN 60 DAYS AFTER [THE EFFECTIVE DATE OF THIS SECTION]. A VACANCY ON THE COUNCIL MUST BE FILLED IN THE MANNER OF THE ORIGINAL APPOINTMENT.

(9) COUNCIL MEMBERS MUST BE REIMBURSED FOR TRAVEL EXPENSES AS PROVIDED IN 2-18-501 THROUGH 2-18-503. MEMBERS OF THE COUNCIL WHO ARE FULL-TIME SALARIED OFFICERS OR EMPLOYEES OF THIS STATE OR ANY POLITICAL SUBDIVISION ARE ENTITLED TO THEIR REGULAR COMPENSATION. LEGISLATIVE MEMBERS MUST BE COMPENSATED AS PROVIDED IN 5-2-302.

(10) THE COUNCIL SHALL REPORT TO THE LAW AND JUSTICE INTERIM COMMITTEE AND THE LEGISLATIVE FINANCE COMMITTEE AS REQUESTED.

NEW SECTION. **SECTION 4. DEPARTMENT OF CORRECTIONS TO REPORT ON CRIMINAL JUSTICE REINVESTMENT LEGISLATION IMPACTS.** IN ADDITION TO ANY DATA OR REPORTS REQUIRED BY THE MONTANA CRIMINAL JUSTICE OVERSIGHT COUNCIL PURSUANT TO [SECTION 3], THE DEPARTMENT OF CORRECTIONS SHALL:

(1) SUBMIT AN ANNUAL REPORT TO THE MONTANA CRIMINAL JUSTICE OVERSIGHT COUNCIL BY AUGUST 15 OF

EACH YEAR. THE REPORT MUST INCLUDE THE IMPACT OF ANY LEGISLATION RELATED TO RECOMMENDATIONS FROM THE COMMISSION ON SENTENCING ESTABLISHED IN CHAPTER 343, LAWS OF 2015, AND THE EXTENT TO WHICH THE DEPARTMENT HAS ESTABLISHED AND MET IMPLEMENTATION GOALS AND PROJECTIONS CONCERNING THE PRISON POPULATION, RECIDIVISM RATE, AND OTHER KEY PUBLIC SAFETY METRICS.

(2) REPORT TO THE LEGISLATURE BY JANUARY 1 OF EACH YEAR ON THE AMOUNT OF SAVINGS GENERATED AND ON THE PRISON POPULATION IMPACT UNDER ANY LEGISLATION RESULTING FROM THE RECOMMENDATIONS OF THE COMMISSION ON SENTENCING ESTABLISHED IN CHAPTER 343, LAWS OF 2015, FOR THE PURPOSE OF TRACKING THE PROGRESS TOWARD MEETING THE IMPACT ESTIMATES AND GOALS OF THE LEGISLATION.

NEW SECTION. **SECTION 5. SUPERVISION RESPONSES GRID.** (1) THE DEPARTMENT SHALL REVISE, MAINTAIN, AND FULLY IMPLEMENT THE POLICY KNOWN AS THE MONTANA INCENTIVES AND INTERVENTIONS GRID. THE GRID MUST GUIDE RESPONSES TO NEGATIVE AND POSITIVE BEHAVIOR BY PEOPLE UNDER SUPERVISION BY THE DEPARTMENT, INCLUDING RESPONSES TO VIOLATIONS OF SUPERVISION CONDITIONS IN A SWIFT, CERTAIN, AND PROPORTIONAL MANNER. THE GRID MUST INCLUDE GUIDANCE AND PROCEDURES TO DETERMINE WHEN AND HOW TO:

(A) REQUEST A WARRANT OR ARREST WITHOUT A WARRANT;

(B) USE A 72-HOUR DETENTION;

(C) INITIATE AN INTERVENTION HEARING;

(D) SEEK DEPARTMENTAL APPROVAL TO USE UP TO 90-DAY INTERVENTIONS; AND

(E) EXHAUST APPROPRIATE GRADUATED VIOLATION RESPONSES BEFORE INITIATING THE REVOCATION PROCESS.

(2) THE DEPARTMENT SHALL:

(A) PROVIDE INFORMATION AND TRAINING ON THE GRID FOR PROBATION AND PAROLE OFFICERS AND SUPERVISORS AND FOR MEMBERS AND STAFF OF THE BOARD OF PARDONS AND PAROLE; AND

(B) OFFER INFORMATION AND TRAINING ON THE GRID TO DISTRICT COURT JUDGES, PROSECUTION AND DEFENSE ATTORNEYS, LAW ENFORCEMENT PERSONNEL, AND COUNTY DETENTION CENTER PERSONNEL.

(3) THE DEPARTMENT SHALL REVIEW THE GRID EVERY 5 YEARS TO ENSURE IT ADHERES TO EVIDENCE-BASED PRACTICES AND THAT THE USE OF SANCTIONS AND INCENTIVES BY PROBATION AND PAROLE OFFICERS IS CONSISTENT ACROSS THE STATE.

NEW SECTION. **SECTION 6. QUALITY ASSURANCE UNIT -- PROGRAM STANDARDS -- EVALUATION -- COOPERATION WITH DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES.** (1) THERE IS A QUALITY ASSURANCE UNIT

IN THE DEPARTMENT OF CORRECTIONS.

(2) IN ADDITION TO DUTIES ASSIGNED TO IT BY THE DEPARTMENT DIRECTOR OR OTHERWISE REQUIRED BY LAW, THE UNIT SHALL:

(A) ADOPT A PROGRAM EVALUATION TOOL THAT ENSURES ADHERENCE TO EVIDENCE-BASED PRACTICES;

(B) CONDUCT EVALUATIONS OF PROGRAMS TO REDUCE RECIDIVISM THAT ARE FUNDED BY THE STATE; AND

(C) ENFORCE STANDARDS TO ENSURE PROGRAMS ARE USING BEST PRACTICES FOR REDUCING RECIDIVISM, INCLUDING TARGETING HIGHEST-RISK INDIVIDUALS, ADHERING TO EVIDENCE-BASED OR RESEARCH-DRIVEN PRACTICES, AND INTEGRATING OPPORTUNITIES FOR ONGOING QUALITY ASSURANCE AND EVALUATION.

(3) SUBJECT TO THE AVAILABILITY OF FUNDING, THE DEPARTMENT MAY CONTRACT WITH AN INDEPENDENT CONTRACTOR OR ACADEMIC INSTITUTION TO COMPLETE EVALUATIONS.

(4) THE UNIT SHALL WORK JOINTLY WITH THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES TO DEVELOP STANDARDS FOR THE QUALITY ASSURANCE IN BEHAVIORAL HEALTH OR OTHER CLINICAL PROGRAMS.

(5) THE UNIT SHALL CONDUCT REGULAR EVALUATIONS OF PROGRAMS OPERATED BY THE DEPARTMENT OR UNDER A CONTRACT WITH THE DEPARTMENT.

(6) AFTER [THE EFFECTIVE DATE OF THIS SECTION], THE DEPARTMENT SHALL ENSURE CONTRACTS SIGNED OR RENEWED WITH PROVIDERS INCLUDE MINIMUM PROGRAM STANDARDS, ELIGIBILITY CRITERIA FOR PROGRAM ENTRY, AND PROGRAM DOSAGE REQUIREMENTS THAT CONFORM WITH THE LATEST RESEARCH AVAILABLE ON BEST PRACTICES.

Section 7. Section 46-9-109, MCA, is amended to read:

"46-9-109. Release or detention hearing. (1) The release or detention of the defendant must be determined immediately upon the defendant's initial appearance.

(2) In determining whether the defendant should be released or detained, the court may use a validated pretrial risk assessment tool and shall take into account the available information concerning:

(a) the nature and circumstances of the offense charged, including whether the offense involved the use of force or violence;

(b) the weight of the evidence against the defendant;

(c) the history and characteristics of the defendant, including:

(i) the defendant's character, physical and mental condition, family ties, employment, financial resources, length of residence in the community, community ties, past conduct, history relating to alcohol or drug abuse, criminal history, and record concerning the appearance at court proceedings; and

(ii) whether at the time of the current arrest or offense, the defendant was on probation, on parole, or on other release pending trial, sentencing, appeal, or completion of sentencing for an offense;

(d) the nature and seriousness of the danger to any person or the community that would be posed by the defendant's release; and

(e) the property available as collateral for the defendant's release to determine if it will reasonably ensure the appearance of the defendant as required.

(3) Upon the motion of any party or the court, a hearing may be held to determine whether bail is established in the appropriate amount or whether any other condition or restriction upon the defendant's release will reasonably ensure the appearance of the defendant and the safety of any person or the community."

NEW SECTION. **Section 8. Repealer.** The following section of the Montana Code Annotated is repealed:

46-9-203. Report to county attorney concerning drug users.

~~NEW SECTION. **Section 5. Codification instruction.** [Sections 1 and 2] are intended to be codified as an integral part of Title 44, chapter 4, part 3, and the provisions of Title 44, chapter 4, part 3, apply to [sections 1 and 2].~~

NEW SECTION. **SECTION 9. APPROPRIATION.** THERE IS APPROPRIATED $28,000 FROM THE GENERAL FUND TO THE DEPARTMENT OF CORRECTIONS FOR THE BIENNIUM BEGINNING JULY 1, 2017, FOR THE PURPOSES OF FUNDING THE COUNCIL AS PROVIDED IN [SECTION 3].

NEW SECTION. **SECTION 10. NOTIFICATION TO TRIBAL GOVERNMENTS.** THE SECRETARY OF STATE SHALL SEND A COPY OF [THIS ACT] TO EACH TRIBAL GOVERNMENT LOCATED ON THE SEVEN MONTANA RESERVATIONS AND TO THE LITTLE SHELL CHIPPEWA TRIBE.

NEW SECTION. **SECTION 11. CODIFICATION INSTRUCTION.** (1) [SECTIONS 1 AND 2] ARE INTENDED TO BE CODIFIED AS AN INTEGRAL PART OF TITLE 44, CHAPTER 4, PART 3, AND THE PROVISIONS OF TITLE 44, CHAPTER 4, PART 3, APPLY TO [SECTIONS 1 AND 2].

(2) [SECTION 5] IS INTENDED TO BE CODIFIED AS AN INTEGRAL PART OF TITLE 46, CHAPTER 23, PART 10, AND

THE PROVISIONS OF TITLE 46, CHAPTER 23, PART 10, APPLY TO [SECTION 5].

(3) [SECTION 6] IS INTENDED TO BE CODIFIED AS AN INTEGRAL PART OF TITLE 53, CHAPTER 1, PART 2, AND THE PROVISIONS OF TITLE 53, CHAPTER 1, PART 2, APPLY TO [SECTION 6].

COORDINATION SECTION. **SECTION 12. COORDINATION INSTRUCTION.** IF BOTH SENATE BILL NO. 63 AND [THIS ACT] ARE PASSED AND APPROVED AND IF SENATE BILL NO. 63 CONTAINS A SECTION AMENDING 53-1-203, THEN THE SECTION AMENDING 53-1-203 IS VOID AND ANY REFERENCES IN SENATE BILL NO. 63 TO THE "INCENTIVES AND INTERVENTIONS GRID ADOPTED UNDER 53-1-203" MUST BE CHANGED TO THE "INCENTIVES AND INTERVENTIONS GRID ADOPTED UNDER [SECTION 5 OF SENATE BILL NO. 59].

NEW SECTION. **SECTION 13. CONTINGENT VOIDNESS.** (1) PURSUANT TO JOINT RULE 40-65, IF [THIS ACT] DOES NOT INCLUDE AN APPROPRIATION PRIOR TO BEING TRANSMITTED TO THE GOVERNOR, THEN [SECTION 3 AND SECTION 4(1)] ARE VOID.

(2) IF THE APPROPRIATION IN [SECTION 9] IS VETOED, THEN [SECTION 3 AND SECTION 4(1)] ARE VOID.

NEW SECTION. **SECTION 14. EFFECTIVE DATES.** (1) EXCEPT AS PROVIDED IN SUBSECTIONS (2) AND (3), [THIS ACT] IS EFFECTIVE ON PASSAGE AND APPROVAL.

(2) [SECTIONS 1, 2, 7, AND 8] ARE EFFECTIVE OCTOBER 1, 2017.

(3) [SECTION 9] IS EFFECTIVE JULY 1, 2017.

NEW SECTION. **SECTION 15. TERMINATION.** [SECTIONS 3 AND 4] TERMINATE JUNE 30, 2019.

- END -

SENATE BILL NO. 59

INTRODUCED BY C. WOLKEN

BY REQUEST OF THE COMMISSION ON SENTENCING

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING CRIMINAL JUSTICE LAWS; REQUIRING THE ~~BOARD OF CRIME CONTROL~~ OFFICE OF COURT ADMINISTRATOR TO CREATE A PRETRIAL ~~GRANT~~ PROGRAM; REQUIRING THE BOARD OF CRIME CONTROL TO CREATE A PROSECUTION DIVERSION GRANT PROGRAM; GRANTING THE BOARD RULEMAKING AUTHORITY TO ADMINISTER THE ~~PROGRAMS~~ PROSECUTION DIVERSION PROGRAM; ALLOWING A COURT TO USE INFORMATION FROM A PRETRIAL RISK ASSESSMENT TOOL WHEN DETERMINING WHETHER A DEFENDANT SHOULD BE RELEASED OR DETAINED; CREATING AN OVERSIGHT COUNCIL TO MONITOR AND REPORT ON THE EFFECTS OF CRIMINAL JUSTICE LEGISLATION; REQUIRING THE QUALITY ASSURANCE UNIT OF THE DEPARTMENT OF CORRECTIONS TO ADOPT AN EVALUATION TOOL AND CONDUCT PROGRAM EVALUATIONS; REQUIRING THE DEPARTMENT TO ADOPT AND MAINTAIN AN INCENTIVES AND INTERVENTIONS GRID TO GUIDE COMMUNITY SUPERVISION OF OFFENDERS; REQUIRING THE COLLECTION OF CERTAIN DATA AND THE PROVISION OF CERTAIN REPORTS; ELIMINATING THE REQUIREMENT THAT A JUDGE OR JUSTICE OF THE PEACE REPORT DRUG USERS TO THE COUNTY ATTORNEY; PROVIDING AN APPROPRIATION; AMENDING ~~SECTION~~ SECTIONS 3-1-702 AND 46-9-109, MCA; ~~AND~~ REPEALING SECTION 46-9-203, MCA; PROVIDING FOR CONTINGENT VOIDNESS; AND PROVIDING EFFECTIVE DATES AND A TERMINATION DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Pretrial program -- rulemaking.** (1) Within the limits of available funds, the ~~board of crime control~~ OFFICE OF COURT ADMINISTRATOR shall develop and administer a pretrial ~~grant program to encourage local adoption of~~ PROGRAM FOR FELONY DEFENDANTS THAT INCLUDES THE USE OF:

(a) a validated pretrial risk assessment tool; and

(b) a dangerousness or lethality assessment for individuals charged with an offense of partner or family member assault.

(2) THE OFFICE OF COURT ADMINISTRATOR MAY USE PROGRAM FUNDS TO:

(A) DEVELOP, IMPLEMENT, AND ADMINISTER THE PRETRIAL PROGRAM; AND

(B) MAKE ALLOCATIONS TO COUNTIES OR NONPROFIT ORGANIZATIONS CONTRACTING WITH A COUNTY TO PROVIDE PRETRIAL SERVICES.

~~(2)~~(3) ~~Grant~~ ALLOCATED funds may be used for pretrial services staff, to obtain assessment instruments, and to provide supervision of pretrial FELONY defendants. ~~A county or a nonprofit organization contracting with a county to provide the pretrial services may be eligible for a grant.~~

~~(3)~~(4) In administering the pretrial program, the ~~board~~ OFFICE shall:

(a) identify priorities for funding services~~, activities, and criteria for the receipt of program funds~~ AND ACTIVITIES AND THE CRITERIA FOR THE ALLOCATION OF PROGRAM FUNDS, INCLUDING THAT COURTS ACCEPTING FUNDS MUST USE A VALIDATED RISK ASSESSMENT TOOL TO ASSIGN RELEASE CONDITIONS AND DETERMINE PLACEMENT OPTIONS;

(b) monitor the expenditure of funds by COUNTIES AND organizations receiving funds under this section;

(c) evaluate the effectiveness of services and activities under this section; ~~and~~

(D) ESTABLISH AN ADVISORY COUNCIL THAT INCLUDES LOCAL AND DISTRICT COURT JUDGES AND OTHER STAKEHOLDERS TO PROVIDE GUIDANCE TO THE OFFICE; AND

~~(d)~~(E) ~~adopt rules~~ DEVELOP POLICIES AND PROCEDURES necessary to implement this section, SUBJECT TO APPROVAL OF THE SUPREME COURT.

~~(4)~~(5) (a) ~~Grants~~ FUNDS available under subsection (1) consist of state appropriations and federal funds received by the ~~board~~ OFFICE for the purposes of administering the pretrial program or any funds received pursuant to subsection ~~(4)(b)~~ (5)(B).

(b) The ~~board~~ OFFICE may accept gifts, grants, and donations from other public or private sources, which must be used within the scope of this section.

NEW SECTION. **Section 2. Prosecution diversion program -- rulemaking.** (1) Within the limits of available funds, the board of crime control shall develop and administer a prosecution diversion grant program to encourage local adoption of prosecution diversion programs under 46-16-130.

(2) Grant funds may be used for staff, to provide supervision, or to contract for program services for defendants in the program. A county attorney or a nonprofit organization contracting with a county attorney may be eligible for a grant.

(3) In administering the prosecution diversion program, the board shall:

(a) identify priorities for funding services, activities, and criteria for the receipt of program funds;

(b) monitor the expenditure of funds by organizations receiving funds under this section;

(c) evaluate the effectiveness of services and activities under this section; and

(d) adopt rules necessary to implement this section.

(4) (a) Grants available under subsection (1) consist of state appropriations and federal funds received by the board for the purposes of administering the prosecution diversion program or any funds received pursuant to subsection (4)(b).

(b) The board may accept gifts, grants, and donations from other public or private sources, which must be used within the scope of this section.

NEW SECTION. **SECTION 3. MONTANA CRIMINAL JUSTICE OVERSIGHT COUNCIL -- DUTIES -- MEMBERSHIP.** (1) THERE IS A MONTANA CRIMINAL JUSTICE OVERSIGHT COUNCIL. THE COUNCIL CONSISTS OF ~~12~~ 15 MEMBERS AS FOLLOWS:

~~(A) ONE MEMBER OF THE HOUSE OF REPRESENTATIVES SELECTED BY THE SPEAKER OF THE HOUSE AND ONE MEMBER OF THE SENATE SELECTED BY THE PRESIDENT OF THE SENATE. THE LEGISLATIVE MEMBERS MUST BE SELECTED IN CONSULTATION WITH THE MINORITY LEADERS AND MAY NOT BE OF THE SAME POLITICAL PARTY.~~

(A) (I) TWO MEMBERS OF THE HOUSE OF REPRESENTATIVES, ONE SELECTED BY THE SPEAKER OF THE HOUSE AND ONE BY THE HOUSE MINORITY LEADER; AND

(II) TWO MEMBERS OF THE SENATE, ONE SELECTED BY THE PRESIDENT OF THE SENATE AND ONE SELECTED BY THE SENATE MINORITY LEADER;

(B) ONE MEMBER SELECTED BY THE CHIEF JUSTICE OF THE MONTANA SUPREME COURT;

(C) THE DIRECTOR OF THE DEPARTMENT OF CORRECTIONS OR THE DIRECTOR'S DESIGNEE;

(D) AN EMPLOYEE OF THE DEPARTMENT OF CORRECTIONS SELECTED BY THE DIRECTOR WHO HAS EXPERTISE IN DATA COLLECTION AND REPORTING;

(E) ONE MEMBER SELECTED BY THE DIRECTOR OF THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES WHO HAS EXPERTISE IN BEHAVIORAL HEALTH TREATMENT SERVICES;

(F) THE EXECUTIVE DIRECTOR OF THE BOARD OF CRIME CONTROL OR THE DIRECTOR'S DESIGNEE;

(G) A COUNTY SHERIFF APPOINTED BY THE ATTORNEY GENERAL; AND

(H) THE FOLLOWING INDIVIDUALS APPOINTED BY THE GOVERNOR:

(I) A MEMBER OF A STATE-RECOGNIZED OR FEDERALLY RECOGNIZED INDIAN TRIBE LOCATED WITHIN THE BOUNDARIES OF THE STATE OF MONTANA WHO HAS EXPERTISE IN CRIMINAL JUSTICE;

(II) ONE MEMBER OF THE BOARD OF PARDONS AND PAROLE;

(III) ONE REPRESENTATIVE OF CRIME VICTIMS; AND

~~(IV) ONE REPRESENTATIVE OF A COMMUNITY CORRECTIONS FACILITY, TREATMENT FACILITY, OR PRERELEASE CENTER.~~

(IV) TWO REPRESENTATIVES OF COMMUNITY CORRECTIONS PROVIDERS, ONE OF WHOM MUST REPRESENT A TREATMENT FACILITY AND ONE OF WHOM MUST REPRESENT A PRERELEASE CENTER.

(2) THE DIRECTOR OF THE DEPARTMENT OF CORRECTIONS OR THE DIRECTOR'S DESIGNEE SHALL SERVE AS PRESIDING OFFICER.

(3) THE COUNCIL SHALL:

(A) REVIEW THE RECOMMENDATIONS OF THE COMMISSION ON SENTENCING ESTABLISHED IN CHAPTER 343, LAWS OF 2015~~, AND OVERSEE IMPLEMENTATION OF AND COMPLIANCE WITH ANY LEGISLATION RESULTING FROM THOSE RECOMMENDATIONS~~;

(B) RECEIVE AND ANALYZE DATA COLLECTED BY AGENCIES AND ENTITIES CHARGED WITH IMPLEMENTING THE RECOMMENDATIONS OF THE COMMISSION ON SENTENCING AND THAT ARE COLLECTING DATA DURING THE IMPLEMENTATION AND MANAGEMENT OF SPECIFIC RECOMMENDATIONS, INCLUDING DATA RELATED TO THE PROGRAMS ESTABLISHED IN [SECTIONS 1 AND 2];

(C) ASSESS OUTCOMES FROM THE RECOMMENDATIONS THE COMMISSION ON SENTENCING HAS MADE AND CORRESPONDING CRIMINAL JUSTICE REFORMS;

(D) REQUEST, RECEIVE, AND REVIEW DATA AND REPORT ON PERFORMANCE OUTCOME DATA RELATING TO CRIMINAL JUSTICE REFORM; AND

(E) RECEIVE REPORTS REQUIRED BY [SECTION 4] TO BE PRODUCED BY THE DEPARTMENT OF CORRECTIONS.

(4) DATA EVALUATION PERFORMED BY THE COUNCIL MUST:

(A) ASSESS THE CURRENT ELECTRONIC RECORDS UTILIZED BY CRIMINAL JUSTICE AGENCIES;

(B) REVIEW AND LIST ALL VARIABLES COLLECTED IN EACH AGENCY'S INFORMATION MANAGEMENT SYSTEM;

(C) ESTABLISH A BASELINE FOR HISTORICAL DATA COMPARISONS;

(D) DETERMINE WHETHER DATA IS LINKED TO SPECIFIC OFFENDERS THROUGH A UNIQUE IDENTIFYING FACTOR;

(E) REVIEW ARCHIVAL DATA AND AGENCIES' DATA RETENTION POLICIES;

(F) DETERMINE WHETHER PRESENTENCE INVESTIGATION REPORTS ARE COMPLETED ELECTRONICALLY IN THE DEPARTMENT OF CORRECTIONS' CASE MANAGEMENT SYSTEM WITHIN ESTABLISHED STATUTORY TIMELINES;

(G) REVIEW ANY ESTABLISHED DATA PROTOCOLS FOR PRETRIAL SERVICES;

(H) ASSESS IF THE DATA COLLECTED OR RECOMMENDED TO BE COLLECTED ON OFFENDERS AND PROGRAMS WILL

PROVIDE CRIMINAL JUSTICE AGENCIES, THE LEGISLATURE, AND THE PUBLIC ADEQUATE INFORMATION TO DETERMINE WHETHER CORRECTIONAL PROGRAMS PRODUCE STANDARDIZED OUTCOMES ACROSS THE STATE AND ARE AN EFFICIENT USE OF STATE RESOURCES; AND

(I) REVIEW AND SUGGEST IMPROVEMENTS FOR BEHAVIORAL HEALTH SCREENING INSTRUMENTS AND OTHER SCREENING INSTRUMENTS AS NEEDED TO ENSURE THE INTEGRITY OF DATA THAT IS CAPTURED IN CRIMINAL JUSTICE AGENCIES' INFORMATION MANAGEMENT SYSTEMS.

(5) THE COUNCIL SHALL EXAMINE THE FEASIBILITY OF CREATING AND MAINTAINING A PUBLIC PORTAL THROUGH WHICH CRIMINAL JUSTICE DATA CAN BE ACCESSED, INCLUDING DATA ON COURT CASE FILINGS, CORRECTIONAL POPULATIONS, AND HISTORICAL AND LEGACY DATA SETS.

~~(4)~~(6) THE COUNCIL SHALL SUBMIT BY SEPTEMBER 1 OF EACH EVEN-NUMBERED YEAR A BIENNIAL REPORT TO THE GOVERNOR AND LEGISLATURE, AS PROVIDED IN 5-11-210. THE REPORT MUST INCLUDE:

(A) A DESCRIPTION OF THE COUNCIL'S PROCEEDINGS SINCE THE PREVIOUS REPORT;

(B) A SUMMARY OF SAVINGS FROM CRIMINAL JUSTICE REFORMS AND RECOMMENDATIONS FOR HOW THE SAVINGS SHOULD BE REINVESTED TO REDUCE RECIDIVISM; ~~AND~~

(C) A DESCRIPTION OF PERFORMANCE MEASURES AND OUTCOMES RELATED TO CRIMINAL JUSTICE REFORMS; AND

(D) A NARRATIVE OF THE COUNCIL'S PROGRESS ON ESTABLISHING DATA COLLECTION AND UNIFORMITY STANDARDS AND ANY CHANGES THAT HAVE BEEN IMPLEMENTED AS A RESULT OF THE COUNCIL'S WORK.

~~(5)~~(7) THE COUNCIL MAY APPOINT A WORKING GROUP TO TRACK ~~IMPLEMENTATION, EVALUATE COMPLIANCE WITH~~ ANY LEGISLATION RESULTING FROM CRIMINAL JUSTICE REFORMS; AND TO PERFORM OTHER DETAILED ANALYSIS AS DIRECTED BY THE COUNCIL. IF APPOINTED, THE WORKING GROUP SHALL MEET REGULARLY AND REPORT TO THE COUNCIL AS THE COUNCIL REQUIRES. THE WORKING GROUP MAY INCLUDE REPRESENTATIVES OF CRIMINAL JUSTICE AGENCIES AND KEY CONSTITUENCIES THAT ARE NOT MEMBERS OF THE COUNCIL.

~~(6)~~(8) THE COUNCIL MAY REQUEST LEGISLATION TO ENACT CHANGES TO THE STATE'S CRIMINAL JUSTICE SYSTEM THAT THE COUNCIL FINDS NECESSARY.

~~(7)~~(9) THE JUDICIAL BRANCH, THE DEPARTMENT OF CORRECTIONS, THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES, THE BOARD OF PARDONS AND PAROLE, AND THE LEGISLATIVE SERVICES AND FISCAL DIVISIONS SHALL PROVIDE DATA AND INFORMATION AS REQUESTED BY THE COUNCIL.

~~(8)~~(10) APPOINTMENTS MADE UNDER SUBSECTION (1) MUST BE MADE WITHIN 60 DAYS AFTER [THE EFFECTIVE DATE OF THIS SECTION]. A VACANCY ON THE COUNCIL MUST BE FILLED IN THE MANNER OF THE ORIGINAL APPOINTMENT.

~~(9)~~(11) COUNCIL MEMBERS MUST BE REIMBURSED FOR TRAVEL EXPENSES AS PROVIDED IN 2-18-501 THROUGH

2-18-503. MEMBERS OF THE COUNCIL WHO ARE FULL-TIME SALARIED OFFICERS OR EMPLOYEES OF THIS STATE OR ANY POLITICAL SUBDIVISION ARE ENTITLED TO THEIR REGULAR COMPENSATION. LEGISLATIVE MEMBERS MUST BE COMPENSATED AS PROVIDED IN 5-2-302.

~~(10)~~(12) THE COUNCIL SHALL REPORT TO THE LAW AND JUSTICE INTERIM COMMITTEE AND THE LEGISLATIVE FINANCE COMMITTEE AS REQUESTED.

NEW SECTION. **SECTION 4. DEPARTMENT OF CORRECTIONS TO REPORT ON CRIMINAL JUSTICE REINVESTMENT LEGISLATION IMPACTS.** IN ADDITION TO ANY DATA OR REPORTS REQUIRED BY THE MONTANA CRIMINAL JUSTICE OVERSIGHT COUNCIL PURSUANT TO [SECTION 3], THE DEPARTMENT OF CORRECTIONS SHALL:

(1) SUBMIT AN ANNUAL REPORT TO THE MONTANA CRIMINAL JUSTICE OVERSIGHT COUNCIL BY AUGUST 15 OF EACH YEAR. THE REPORT MUST INCLUDE:

(A) THE IMPACT OF ANY LEGISLATION RELATED TO RECOMMENDATIONS FROM THE COMMISSION ON SENTENCING ESTABLISHED IN CHAPTER 343, LAWS OF 2015; ~~AND~~;

(B) THE EXTENT TO WHICH THE DEPARTMENT HAS ESTABLISHED AND MET IMPLEMENTATION GOALS AND PROJECTIONS CONCERNING THE PRISON POPULATION, RECIDIVISM RATE, AND OTHER KEY PUBLIC SAFETY METRICS; AND

(C) THE RESULTS OF INITIAL AND ONGOING PROGRAM EVALUATIONS THAT THE DEPARTMENT IS REQUIRED BY [SECTION 6] TO CONDUCT, INCLUDING ANY IDENTIFIED PROGRAM DEFICIENCIES AND THE DEPARTMENT'S PLAN TO CORRECT THOSE DEFICIENCIES.

(2) REPORT TO THE LEGISLATURE BY JANUARY 1 OF EACH YEAR ON THE AMOUNT OF SAVINGS GENERATED AND ON THE PRISON POPULATION IMPACT UNDER ANY LEGISLATION RESULTING FROM THE RECOMMENDATIONS OF THE COMMISSION ON SENTENCING ESTABLISHED IN CHAPTER 343, LAWS OF 2015, FOR THE PURPOSE OF TRACKING THE PROGRESS TOWARD MEETING THE IMPACT ESTIMATES AND GOALS OF THE LEGISLATION.

NEW SECTION. **SECTION 5. SUPERVISION RESPONSES GRID -- REPORT.** (1) THE DEPARTMENT SHALL REVISE, MAINTAIN, AND FULLY IMPLEMENT THE POLICY KNOWN AS THE MONTANA INCENTIVES AND INTERVENTIONS GRID. THE GRID MUST GUIDE RESPONSES TO NEGATIVE AND POSITIVE BEHAVIOR BY PEOPLE UNDER SUPERVISION BY THE DEPARTMENT, INCLUDING RESPONSES TO VIOLATIONS OF SUPERVISION CONDITIONS IN A SWIFT, CERTAIN, AND PROPORTIONAL MANNER. THE GRID MUST INCLUDE GUIDANCE AND PROCEDURES TO DETERMINE WHEN AND HOW TO:

(A) REQUEST A WARRANT OR ARREST WITHOUT A WARRANT;

(B) USE A 72-HOUR DETENTION;

(C) INITIATE AN INTERVENTION HEARING;

(D) SEEK DEPARTMENTAL APPROVAL TO USE UP TO 90-DAY INTERVENTIONS; AND

(E) EXHAUST AND DOCUMENT APPROPRIATE GRADUATED VIOLATION RESPONSES BEFORE INITIATING THE REVOCATION PROCESS.

(2) THE GRID MUST RECOMMEND THE LEAST RESTRICTIVE PLACEMENT FOR OFFENDERS BASED ON THE RESULT OF A VALIDATED RISK AND NEEDS ASSESSMENT. PLACEMENT DECISIONS MUST BE DOCUMENTED IN THE OFFENDER'S FILE AND MUST INDICATE ANY OTHER LESS SECURE SANCTION OPTIONS CONSIDERED BY THE PROBATION AND PAROLE OFFICER BEFORE UTILIZING A HIGHER LEVEL OF CUSTODY.

~~(2)~~(3) THE DEPARTMENT SHALL:

(A) PROVIDE INFORMATION AND TRAINING ON THE GRID FOR PROBATION AND PAROLE OFFICERS AND SUPERVISORS AND FOR MEMBERS AND STAFF OF THE BOARD OF PARDONS AND PAROLE; ~~AND~~

(B) OFFER INFORMATION AND TRAINING ON THE GRID TO DISTRICT COURT JUDGES, PROSECUTION AND DEFENSE ATTORNEYS, LAW ENFORCEMENT PERSONNEL, ~~AND~~ COUNTY DETENTION CENTER PERSONNEL~~:~~, CONTRACTED SERVICE PROVIDERS, AND OTHER INTERESTED PERSONNEL;

~~(3) THE DEPARTMENT SHALL~~ (C) REVIEW THE GRID EVERY 5 YEARS TO ENSURE THAT IT ADHERES TO EVIDENCE-BASED PRACTICES AND THAT THE USE OF SANCTIONS AND INCENTIVES BY PROBATION AND PAROLE OFFICERS IS CONSISTENT ACROSS THE STATE~~:~~;

(D) ENSURE THAT THE GUIDANCE AND PROCEDURES ESTABLISHED IN THE GRID CONSIDER COMMUNITY SAFETY AND THE NEEDS OF THE VICTIM AND OFFENDER;

(E) COLLECT DATA RELATING TO PLACEMENT DECISIONS BASED ON THE GRID; AND

(F) AGGREGATE COLLECTED DATA AND PROVIDE A REPORT TO THE LAW AND JUSTICE INTERIM COMMITTEE EACH BIENNIUM.

NEW SECTION. **SECTION 6. QUALITY ASSURANCE UNIT -- PROGRAM STANDARDS -- EVALUATION -- COOPERATION WITH DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES -- REPORT.** (1) THERE IS A QUALITY ASSURANCE UNIT IN THE DEPARTMENT OF CORRECTIONS.

(2) IN ADDITION TO DUTIES ASSIGNED TO IT BY THE DEPARTMENT DIRECTOR OR OTHERWISE REQUIRED BY LAW, THE UNIT SHALL:

(A) ADOPT ~~A~~ AN EVIDENCE-BASED PROGRAM EVALUATION TOOL THAT ~~ENSURES ADHERENCE TO EVIDENCE-BASED PRACTICES;~~ MEASURES HOW CLOSELY CORRECTIONAL PROGRAMS MEET THE KNOWN PRINCIPLES OF EFFECTIVE

INTERVENTION. THE TOOL MUST MEASURE PROGRAM CONTENT AND CAPACITY TO ENSURE THE DELIVERY OF EFFECTIVE INTERVENTIONS FOR OFFENDERS.

(B) CONDUCT EVALUATIONS OF PROGRAMS TO REDUCE RECIDIVISM THAT ARE FUNDED BY THE STATE; AND

(C) ENFORCE STANDARDS TO ENSURE THAT PROGRAMS ARE USING BEST PRACTICES FOR REDUCING RECIDIVISM, INCLUDING TARGETING HIGHEST-RISK INDIVIDUALS, ADHERING TO EVIDENCE-BASED OR RESEARCH-DRIVEN PRACTICES, AND INTEGRATING OPPORTUNITIES FOR ONGOING QUALITY ASSURANCE AND EVALUATION.

(3) SUBJECT TO THE AVAILABILITY OF FUNDING, THE DEPARTMENT MAY CONTRACT WITH AN INDEPENDENT CONTRACTOR OR ACADEMIC INSTITUTION TO COMPLETE EVALUATIONS.

(4) THE UNIT SHALL WORK JOINTLY WITH THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES TO DEVELOP STANDARDS FOR ~~THE~~ QUALITY ASSURANCE IN BEHAVIORAL HEALTH PROGRAMS OR OTHER CLINICAL PROGRAMS.

(5) THE UNIT SHALL CONDUCT REGULAR EVALUATIONS OF PROGRAMS OPERATED BY THE DEPARTMENT OR UNDER A CONTRACT WITH THE DEPARTMENT.

(6) THE DEPARTMENT SHALL:

(A) DEVELOP AND MAINTAIN A LIST OF EVIDENCE-BASED TREATMENT CURRICULUMS TO BE UTILIZED IN PROGRAMS OPERATED BY OR UNDER CONTRACT WITH THE DEPARTMENT WITH PRIORITY BEING PLACED ON ADOPTING TREATMENT CURRICULUMS THAT ARE IN THE PUBLIC DOMAIN AND EVIDENCE-BASED; AND

(B) REPORT THE RESULTS OF ALL INITIAL AND ONGOING PROGRAM EVALUATIONS TO THE LAW AND JUSTICE INTERIM COMMITTEE EACH INTERIM, INCLUDING ANY IDENTIFIED PROGRAM DEFICIENCIES AND THE DEPARTMENT'S PLAN TO CORRECT THOSE DEFICIENCIES.

~~(6)~~(7) AFTER [THE EFFECTIVE DATE OF THIS SECTION], THE DEPARTMENT SHALL ENSURE THAT CONTRACTS SIGNED OR RENEWED WITH PROVIDERS ~~INCLUDE MINIMUM PROGRAM STANDARDS, ELIGIBILITY CRITERIA FOR PROGRAM ENTRY, AND PROGRAM DOSAGE REQUIREMENTS THAT CONFORM WITH THE LATEST RESEARCH AVAILABLE ON BEST PRACTICES~~ CONTAIN:

(A) MINIMUM PROGRAM STANDARDS THAT ADHERE TO THE EVIDENCE-BASED PROGRAM EVALUATION TOOL ADOPTED AS REQUIRED IN SUBSECTION (2);

(B) OFFENDER ELIGIBILITY CRITERIA FOR PROGRAM ENTRY WITH THE CONTRACTOR; AND

(C) PROGRAM DOSAGE REQUIREMENTS THAT CONFORM TO EVIDENCE-BASED PRACTICES.

SECTION 7. SECTION 3-1-702, MCA, IS AMENDED TO READ:

"**3-1-702. Duties.** The court administrator is the administrative officer of the court. Under the direction

of the supreme court, the court administrator shall:

(1) prepare and present judicial budget requests to the legislature, including the costs of the state-funded district court program;

(2) collect, compile, and report statistical and other data relating to the business transacted by the courts and provide the information to the legislature on request;

(3) report annually to the law and justice interim committee and at the beginning of each regular legislative session report to the house appropriations subcommittee that considers general government on the status of development and procurement of information technology within the judicial branch, including any changes in the judicial branch information technology strategic plan and any problems encountered in deploying appropriate information technology within the judicial branch. The court administrator shall, to the extent possible, provide that current and future applications are coordinated and compatible with the standards and goals of the executive branch as expressed in the state strategic information technology plan provided for in 2-17-521.

(4) recommend to the supreme court improvements in the judiciary;

(5) administer legal assistance for indigent victims of domestic violence, as provided in 3-2-714;

(6) administer state funding for district courts, as provided in chapter 5, part 9;

(7) administer and report on the child abuse court diversion pilot project provided in 41-3-305;

(8) administer the pretrial program provided for in [section 1];

~~(8)~~(9) administer the judicial branch personnel plan; and

~~(9)~~(10) perform other duties that the supreme court may assign. (Subsection (7) terminates June 30, 2017--sec. 7, Ch. 376, L. 2015.)"

Section 8. Section 46-9-109, MCA, is amended to read:

"46-9-109. Release or detention hearing. (1) The release or detention of the defendant must be determined immediately upon the defendant's initial appearance.

(2) In determining whether the defendant should be released or detained, the court may use a validated pretrial risk assessment tool and shall take into account the available information concerning:

(a) the nature and circumstances of the offense charged, including whether the offense involved the use of force or violence;

~~(b) the weight of the evidence against the defendant;~~

~~(c)~~(B) the history and characteristics of the defendant, including:

(i) the defendant's character, physical and mental condition, family ties, employment, financial resources, length of residence in the community, community ties, past conduct, history relating to alcohol or drug abuse, criminal history, and record concerning the appearance at court proceedings; and

(ii) whether at the time of the current arrest or offense, the defendant was on probation, on parole, or on other release pending trial, sentencing, appeal, or completion of sentencing for an offense;

~~(d)~~(C) the nature and seriousness of the danger to any person or the community that would be posed by the defendant's release; and

~~(e)~~(D) the property available as collateral for the defendant's release to determine if it will reasonably ensure the appearance of the defendant as required.

(3) Upon the motion of any party or the court, a hearing may be held to determine whether bail is established in the appropriate amount or whether any other condition or restriction upon the defendant's release will reasonably ensure the appearance of the defendant and the safety of any person or the community."

NEW SECTION. **Section 9. Repealer.** The following section of the Montana Code Annotated is repealed:

46-9-203. Report to county attorney concerning drug users.

~~NEW SECTION. **Section 5. Codification instruction.** [Sections 1 and 2] are intended to be codified as an integral part of Title 44, chapter 4, part 3, and the provisions of Title 44, chapter 4, part 3, apply to [sections 1 and 2].~~

NEW SECTION. **SECTION 10. APPROPRIATION.** THERE IS APPROPRIATED **$28,000** FROM THE GENERAL FUND TO THE DEPARTMENT OF CORRECTIONS FOR THE BIENNIUM BEGINNING JULY 1, 2017, FOR THE PURPOSES OF FUNDING THE COUNCIL AS PROVIDED IN [SECTION 3].

NEW SECTION. **SECTION 11. NOTIFICATION TO TRIBAL GOVERNMENTS.** THE SECRETARY OF STATE SHALL SEND A COPY OF [THIS ACT] TO EACH TRIBAL GOVERNMENT LOCATED ON THE SEVEN MONTANA RESERVATIONS AND TO THE LITTLE SHELL CHIPPEWA TRIBE.

NEW SECTION. **SECTION 12. CODIFICATION INSTRUCTION.** (1) ~~[SECTIONS 1 AND 2] ARE~~ [SECTION 1] IS

INTENDED TO BE CODIFIED AS AN INTEGRAL PART OF ~~TITLE 44, CHAPTER 4, PART 3,~~ TITLE 3, CHAPTER 1, PART 7, AND THE PROVISIONS OF ~~TITLE 44, CHAPTER 4, PART 3,~~ TITLE 3, CHAPTER 1, PART 7, APPLY TO ~~[SECTIONS 1 AND 2]~~. [SECTION 1].

(2) [SECTION 2] IS INTENDED TO BE CODIFIED AS AN INTEGRAL PART OF TITLE 44, CHAPTER 4, PART 3, AND THE PROVISIONS OF TITLE 44, CHAPTER 4, PART 3, APPLY TO [SECTION 2].

~~(2)~~(3) [SECTION 5] IS INTENDED TO BE CODIFIED AS AN INTEGRAL PART OF TITLE 46, CHAPTER 23, PART 10, AND THE PROVISIONS OF TITLE 46, CHAPTER 23, PART 10, APPLY TO [SECTION 5].

~~(3)~~(4) [SECTION 6] IS INTENDED TO BE CODIFIED AS AN INTEGRAL PART OF TITLE 53, CHAPTER 1, PART 2, AND THE PROVISIONS OF TITLE 53, CHAPTER 1, PART 2, APPLY TO [SECTION 6].

COORDINATION SECTION. **SECTION 13. COORDINATION INSTRUCTION.** IF BOTH SENATE BILL NO. 63 AND [THIS ACT] ARE PASSED AND APPROVED AND IF SENATE BILL NO. 63 CONTAINS A SECTION AMENDING 53-1-203, THEN THE SECTION AMENDING 53-1-203 IS VOID AND ANY REFERENCES IN SENATE BILL NO. 63 TO THE "INCENTIVES AND INTERVENTIONS GRID ADOPTED UNDER 53-1-203" MUST BE CHANGED TO THE "INCENTIVES AND INTERVENTIONS GRID ADOPTED UNDER [SECTION 5 OF SENATE BILL NO. 59].

NEW SECTION. **SECTION 14. CONTINGENT VOIDNESS.** (1) PURSUANT TO JOINT RULE 40-65, IF [THIS ACT] DOES NOT INCLUDE AN APPROPRIATION FOR THE PURPOSES OF FUNDING [SECTION 3] PRIOR TO BEING TRANSMITTED TO THE GOVERNOR, THEN [SECTION 3 AND SECTION 4(1)] ARE VOID.

(2) IF THE APPROPRIATION IN [SECTION ~~9~~ 10] IS VETOED, THEN [SECTION 3 AND SECTION 4(1)] ARE VOID.

(3) IF HOUSE BILL NO. 2 IS PASSED AND APPROVED AND IF IT DOES NOT INCLUDE FUNDING FOR THE PRETRIAL PROGRAM ESTABLISHED IN [SECTION 1], THEN [SECTIONS 1, 7, AND 8] ARE VOID.

NEW SECTION. **SECTION 15. EFFECTIVE DATES.** (1) EXCEPT AS PROVIDED IN ~~SUBSECTIONS~~ SUBSECTION (2) ~~AND (3)~~, [THIS ACT] IS EFFECTIVE ON PASSAGE AND APPROVAL.

~~(2) [SECTIONS 1, 2, 7, AND 8] ARE EFFECTIVE OCTOBER 1, 2017.~~

~~(3) [SECTION 9] IS EFFECTIVE JULY 1, 2017.~~ (2) [SECTIONS 1, 2, 7, 8, AND 10] ARE EFFECTIVE JULY 1, 2017.

NEW SECTION. **SECTION 16. TERMINATION.** [SECTIONS 3 AND 4] TERMINATE JUNE 30, 2019.

- END -

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
65th LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: Chair Alan Doane, on February 16, 2017 at 8:00 AM, in Room 137 Capitol

ROLL CALL

Members Present:

Rep. Alan Doane, Chair (R)
Rep. Seth Berglee, Vice Chair (R)
Rep. Laurie Bishop (D)
Rep. Bob Brown (R)
Rep. Jennifer Eck (D)
Rep. Bill Harris (R)
Rep. Ellie Hill Smith (D)
Rep. Kathy Kelker (D)
Rep. Casey Knudsen (R)
Rep. Theresa Manzella (R)
Rep. Nate McConnell (D)
Rep. Shane A. Morigeau (D)
Rep. Dale Mortensen (R)
Rep. Zac Perry (D)
Rep. Lola Sheldon-Galloway (R)
Rep. Barry Usher (R)
Rep. Kirk Wagoner (R)

Members Excused:

Rep. Virginia Court, Vice Chair (D)
Rep. Matt Regier (R)

Members Absent: None

Staff Present: Sara Fleming, Committee Secretary
Helen Thigpen, Legislative Branch

Audio Committees: These minutes are in outline form only. They provide a list of participants and a record of official action taken by the committee. The link to the audio recording of the meeting is available on the Legislative Branch website.

Committee Business Summary:

Hearing & Date Posted:	SB 59, 2/10/2017; SB 60, 2/14/2017; SB 63, 2/10/2017; SB 64, 2/14/2017; SB 65, 2/10/2017; SB 67, 2/10/2017
Executive Action:	HB 399, HJ 8

HEARING ON SB 59

Opening Statement by Sponsor:
00:01:20 Sen. Cynthia Wolken (D), SD 48, opened the hearing on SB 59, Generally revise criminal justice laws.

Proponents' Testimony:
00:07:57 Mark Pelka, Council State Government Justice Center (CSG)
EXHIBIT(juh34a01)

00:11:46 Rep. Brodehl
00:14:13 Sen. Osmundson
00:15:24 SK Rossi, American Civil Liberties Union (ACLU)
00:15:52 Brent Mead, Montana Policy Institute (MPI)
00:17:32 Joe Loos, Missoula Interfaith Collaborative

Opponents' Testimony: None

Informational Testimony:
00:19:28 Deb Matteucci, Montana Board of Crime Control
00:20:14 Adrian Slaughter, Department of Corrections (COR)
00:20:33 Peter Ohman, Office of the Public Defender (OPD)

Questions from Committee Members and Responses:
00:21:14 Rep. Kelker
00:21:48 Sen. Wolken
00:22:32 Rep. Manzella
00:22:59 Peter Ohman, OPD

Closing by Sponsor:
00:27:14 Sen. Wolken

HEARING ON SB 60

Opening Statement by Sponsor:
00:27:34 Sen. Cynthia Wolken (D), SD 48, opened the hearing on SB 60, Generally revise criminal justice laws.

Proponents' Testimony:
00:30:04 Mark Pelka, Council State Government Justice Center (CSG)
EXHIBIT(juh34a02)

00:31:53 Rep. Regier joined the meeting
00:36:00 Brent Mead, Montana Policy Institute (MPI)

Opponents' Testimony: None

Informational Testimony:
00:36:32 Adrian Slaughter, Department of Corrections (COR)

EXHIBIT 1
DATE 2/16/17
SB 59

Senate Bill 59 - Generally revise criminal justice laws

Justice Reinvestment in Montana

Senate Bill 59 is part of a package of bills supported by the Montana Commission on Sentencing that together avert growth in prison and supervision populations, increase public safety, reduce recidivism, and provide tools to counties to ease pressures on jail populations. The policy framework in these bills is estimated to avert forecasted growth in Montana's prison population and avert $69 million in future costs.

Senate Bill 59 relieves population pressures on county jails, increases public safety, and reduces recidivism by:

- Establishing a pretrial services grant program to incentivize counties to adopt a pretrial risk assessment tool and provide supervision for higher-risk pretrial defendants.
- Establishing a grant program to advance the development and expansion of diversion programs, including deferred prosecution programs.
- Allowing the court to use information from a pretrial risk assessment tool when determining release or detention and eliminating the requirement judges report drug users to the county attorney.
- Granting the Board of Crime Control rulemaking authority to administer grant programs.

Rationale

Montana's jail population rose 67 percent between 2011 and 2013, and in 2013 Montana had the highest jail incarceration rate among its neighboring states.[1] Local criminal justice stakeholders identify the pretrial population as a significant component of jail populations.[2] Substance use also presents a growing challenge for Montana's criminal justice system, and between FY2009 and FY2015, arrests for drug offenses went up 62 percent.[3]

This bill creates two match grant programs for counties. It creates a pretrial grant program to incentivize counties to adopt a pretrial risk assessment tool for pretrial defendants, to conduct a dangerousness and/or lethality assessment for people charged with domestic violence offenses, and to provide monitoring and supervision of higher-risk pretrial defendants. It also establishes a diversion grant program to advance the development and expansion of diversion programs, including deferred prosecution programs for arrests for drug offenses.

Conducting pretrial risk assessments enables counties to release low-risk defendants who do not need to be detained. Providing pretrial supervision allows counties to supervise high-risk defendants and connect them to treatment and programs. Requiring a dangerousness and/or lethality assessment for people charged with domestic violence offenses gives judges the information they need to mandate supervision of high-risk domestic violence defendants upon their release. By helping counties adopt a

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[1] Bureau of Justice Statistics, "Census of Jails: Populations Changes, 1999–2013" (Washington, DC : USDOJ, 2015). The 2013 jail incarceration rates of neighboring states were as follow: Colorado (290), Idaho (280), Minnesota (150), Nebraska (240), North Dakota (220), South Dakota (260), Utah (350), and Wyoming (320),

[2] CSG Justice Center analysis of Montana Department of Justice arrests data, FY2009–FY2015.

[3] CSG Justice Center analysis of Montana Department of Justice arrests data, FY2009-2015.

pretrial risk assessment tool and provide pretrial supervision, the state will improve public safety and aid counties in averting spending associated with growth in jail populations.

Diversion programs allow local criminal justice practitioners such as county attorneys to connect people who have substance use or mental health issues to treatment and programs and encourage early resolution of cases. Local practitioners may use funds provided by this program to hire a coordinator and partner with a community treatment provider to support people with behavioral health issues. By diverting people to high-quality treatment and programs, the state can also avoid spending associated with prosecuting, processing, incarcerating, and supervising people who would benefit most from participating in behavioral health treatment and programs in lieu of incarceration.

Montana State Legislature

2017 SESSION

ADDITIONAL DOCUMENTS
May include the following:

Business Page
[Signed by Chairman]
RoH Call
Standing Committee Reports
Tabled BiHs
Fiscal Reports
Rolls Call Votes
Proxy Forms
Visitor Registrations

***Any other documents, which were submitted after the committee hearing has ended and/or was submitted late [within 48 hours], regarding information in the committee hearing.**
***Witness Statements that were not presented as exhibits.**

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BUSINESS REPORT

MONTANA HOUSE OF REPRESENTATIVES
65th LEGISLATURE - REGULAR SESSION

HOUSE JUDICIARY COMMITTEE

Date: Thursday, February 16, 2017 **Time:** 8:00 AM
Place: Capitol **Room:** 137

BILLS and RESOLUTIONS HEARD:
SB 59 - Generally revise criminal justice laws - Sen. Cynthia Wolken
SB 60 - Generally revise criminal justice laws - Sen. Cynthia Wolken
SB 63 - Revise laws related to supervision of offenders/defendants - Sen. Cynthia Wolken
SB 64 - Generally revise laws related to the board of pardons and parole - Sen. Cynthia Wolken
SB 65 - Generally revise laws regarding housing options for offenders - Sen. Cynthia Wolken
SB 67 - Generally revise offender intervention program laws - Sen. Cynthia Wolken

EXECUTIVE ACTION TAKEN:
HB 399 - To Be Tabled
HJ 8 - To Be Tabled

Comments:

REP. Alan Doane, Chair

The Big Sky Country

MONTANA HOUSE OF REPRESENTATIVES

JUDICIARY COMMITTEE

ROLL CALL

DATE: 2/16/17

NAME	PRESENT	ABSENT/EXCUSED
REP. SETH BERGLEE, VICE CHAIR	✓	
REP. VIRGINIA COURT, VICE CHAIR		✓
REP. KATHY KELKER	✓	
REP. BOB BROWN	✓	
REP. BARRY USHER	✓	
REP. DALE MORTENSEN	✓	
REP. JENNY ECK	✓	
REP. LAURIE BISHOP	✓	
REP. ELLIE HILL SMITH	✓	
REP. NATE MCCONNELL	✓	
REP. KIRK WAGONER	✓	
REP. MATT REGIER		✓
REP. BILL HARRIS	✓	
REP. LOLA SHELDON-GALLOWAY	✓	
REP. THERESA MANZELLA	✓	
REP. CASEY KNUDSEN	✓	
REP. ZAC PERRY	✓	
REP. SHANE MORIGEAU	✓	
REP. ALAN DOANE, CHAIR	✓	

19 MEMBERS

MONTANA House of Representatives
Visitors Register
HOUSE JUDICIARY COMMITTEE

Thursday, February 16, 2017
SB 59 - Generally revise criminal justice laws
Sponsor: **Sen. Cynthia Wolken**

PLEASE PRINT

Name	Representing	Support	Oppose	Info
Brent Mead	MPI	X		
Cynthia Wolken		X		
Sk Rossi	ACLU	X		
Tina Chamberlain	MBCC			✓
ADRIANNE SHELLENBERGER	DEPT CORRECTIONS			✓
Peter Ohman				X
Jeb Mathews	MBCC			X
Marc Pelka	CSG			

Please leave prepared testimony with Secretary. Witness Statement forms are available if you care to submit written testimony.

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
65th LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: Chair Alan Doane, on March 10, 2017 at 8:00 AM, in Room 137 Capitol

ROLL CALL

Members Present:

Rep. Alan Doane, Chair (R)
Rep. Seth Berglee, Vice Chair (R)
Rep. Virginia Court, Vice Chair (D)
Rep. Laurie Bishop (D)
Rep. Bob Brown (R)
Rep. Jennifer Eck (D)
Rep. Bill Harris (R)
Rep. Ellie Hill Smith (D)
Rep. Kathy Kelker (D)
Rep. Theresa Manzella (R)
Rep. Nate McConnell (D)
Rep. Shane A. Morigeau (D)
Rep. Dale Mortensen (R)
Rep. Zac Perry (D)
Rep. Matt Regier (R)
Rep. Lola Sheldon-Galloway (R)
Rep. Barry Usher (R)
Rep. Kirk Wagoner (R)

Members Excused:

Rep. Casey Knudsen (R)

Members Absent: None

Staff Present: Sara Fleming, Committee Secretary
Helen Thigpen, Legislative Branch

Audio Committees: These minutes are in outline form only. They provide a list of participants and a record of official action taken by the committee. The link to the audio recording of the meeting is available on the Legislative Branch website.

Committee Business Summary:

Hearing & Date Posted:	SB 28, 3/7/2017; SJ 3, 3/7/2017
Executive Action:	SB 59, SB 60, SB 63, SB 64, SB 65, SB 67, SJ 3, SJ 11

Informational Testimony: None

Questions from Committee Members and Responses:

00:43:35	Rep. Court
00:44:00	Abigail St. Lawrence, MAR, Bloomquist Law Firm
00:52:13	Rep. McConnell
00:53:33	Krista Lee Evans, AGAI
00:56:00	Rep. McConnell
00:56:27	Krista Lee Evans, AGAI
00:58:12	Rep. Hill Smith left the meeting
00:58:53	Rep. McConnell
00:59:25	Sen. Vincent
01:02:56	Rep. Regier
01:03:22	Krista Lee Evans, AGAI
01:03:55	Rep. Harris
01:04:53	Abigail St. Lawrence, MAR, Bloomquist Law Firm
01:11:19	Rep. Manzella
01:12:50	Krista Lee Evans, AGAI
01:14:29	Chair Doane
01:15:31	Rep. Usher
01:16:26	Bina Peters, Self
01:18:35	Rep. Kelker
01:19:21	John Tubbs, DNRC
01:23:46	Rep. Wagoner

Closing by Sponsor:

01:24:31	Sen. Vincent

01:34:10	Recess
02:02:11	Reconvene

EXECUTIVE ACTION ON SB 59

Discussion:

02:02:23 Helen Thigpen, Legislative Services Division (LSD)

02:02:55 **Motion:** Rep. Berglee moved that **SB 59 BE CONCURRED IN**.

Discussion:

02:03:20 Helen Thigpen, LSD

02:05:31 **Motion:** Rep. Berglee moved that **SB 59 BE AMENDED**.
EXHIBIT(juh50a02)

Discussion:

02:06:02	Sen. Wolken
02:06:40	Rep. Manzella
02:07:30	Sen. Wolken
02:08:35	Rep. Wagoner
02:08:57	Sen. Wolken

02:09:08 Rep. Usher

02:09:16 **Vote:** Motion carried unanimously by voice vote. Rep. Eck, Rep. Hill Smith and Rep. C. Knudsen voted by proxy.

02:09:48 **Motion/Vote:** Rep. Berglee moved that **SB 59 BE CONCURRED IN AS AMENDED**. Motion carried unanimously by voice vote. Rep. Eck, Rep. Hill Smith and Rep. C. Knudsen voted by proxy. Rep. Kelker will carry the bill.

EXECUTIVE ACTION ON SB 60

Discussion:
02:10:59 Helen Thigpen, LSD
02:11:50 Chair Doane

02:11:56 **Motion:** Rep. Berglee moved that **SB 60 BE CONCURRED IN.**

Discussion:
02:12:05 Rep. McConnell

02:12:36 **Vote:** Motion carried unanimously by voice vote. Rep. Eck, Rep. Hill Smith and Rep. C. Knudsen voted by proxy. Rep. McConnell will carry the bill.

EXECUTIVE ACTION ON SB 63

Discussion:
02:13:22 Helen Thigpen, LSD

02:14:07 **Motion:** Rep. Berglee moved that **SB 63 BE CONCURRED IN.**

Discussion:
02:14:18 Rep. McConnell

02:14:48 **Vote:** Motion carried unanimously by voice vote. Rep. Eck, Rep. Hill Smith and Rep. C. Knudsen voted by proxy. Rep. McConnell will carry the bill.

EXECUTIVE ACTION ON SB 64

Discussion:
02:15:26 Helen Thigpen, LSD

02:16:03 **Motion:** Rep. Berglee moved that **SB 64 BE CONCURRED IN.**

Discussion:
02:16:17 Rep. Sheldon-Galloway
02:18:15 Rep. Court
02:18:34 Chair Doane
02:18:46 Rep. Usher
02:18:57 Sen. Wolken
02:20:04 Chair Doane

EXHIBIT 2
DATE 3/10/17
SB 59

Amendments to Senate Bill No. 59
3rd Reading Copy

Requested by Senator Cynthia Wolken

For the House Judiciary Committee

Prepared by Rachel Weiss
March 9, 2017 (8:50am)

1. Title, page 1, line 10.
Following: "DETAINED;"
Insert: "CREATING AN OVERSIGHT COUNCIL TO MONITOR AND REPORT ON THE EFFECTS OF CRIMINAL JUSTICE LEGISLATION; REQUIRING THE QUALITY ASSURANCE UNIT OF THE DEPARTMENT OF CORRECTIONS TO ADOPT AN EVALUATION TOOL AND CONDUCT PROGRAM EVALUATIONS; REQUIRING THE DEPARTMENT TO ADOPT AND MAINTAIN AN INCENTIVES AND INTERVENTIONS GRID TO GUIDE COMMUNITY SUPERVISION OF OFFENDERS;"

2. Title, page 1, line 11.
Following: "ATTORNEY;"
Insert: "PROVIDING AN APPROPRIATION;"

3. Page 1, line 12.
Following: "46-9-109, MCA;"
Strike: "AND"
Following: "46-9-203, MCA"
Insert: "; PROVIDING FOR CONTINGENT VOIDNESS; AND PROVIDING EFFECTIVE DATES AND A TERMINATION DATE"

4. Page 2, following line 20.
Insert: "NEW SECTION. **Section 3. Montana criminal justice oversight council -- duties -- membership.** (1) There is a Montana criminal justice oversight council. The council consists of 12 members as follows:

(a) one member of the house of representatives selected by the speaker of the house and one member of the senate selected by the president of the senate. The legislative members must be selected in consultation with the minority leaders and may not be of the same political party.

(b) one member selected by the chief justice of the Montana supreme court;

(c) the director of the department of corrections or the director's designee;

(d) an employee of the department of corrections selected by the director who has expertise in data collection and reporting;

(e) one member selected by the director of the department of public health and human services who has expertise in behavioral health treatment services;

(f) the executive director of the board of crime control or the director's designee;

(g) a county sheriff appointed by the attorney general; and

(h) the following individuals appointed by the governor:

(i) a member of a state-recognized or federally recognized Indian tribe located within the boundaries of the state of Montana who has expertise in criminal justice;

(ii) one member of the board of pardons and parole;

(iii) one representative of crime victims; and

(iv) one representative of a community corrections facility, treatment facility, or prerelease center.

(2) The director of the department of corrections or the director's designee shall serve as presiding officer.

(3) The council shall:

(a) review the recommendations of the commission on sentencing established in Chapter 343, Laws of 2015, and oversee implementation of and compliance with any legislation resulting from those recommendations;

(b) receive and analyze data collected by agencies and entities charged with implementing the recommendations of the commission on sentencing and that are collecting data during the implementation and management of specific recommendations;

(c) assess outcomes from the recommendations the commission on sentencing has made and corresponding criminal justice reforms;

(d) request, receive, and review data and report on performance outcome data relating to criminal justice reform; and

(e) receive reports required by [section 4] to be produced by the department of corrections.

(4) The council shall submit by September 1 of each even-numbered year a biennial report to the governor and legislature, as provided in 5-11-210. The report must include:

(a) a description of the council's proceedings since the previous report;

(b) a summary of savings from criminal justice reforms and recommendations for how the savings should be reinvested to reduce recidivism; and

(c) a description of performance measures and outcomes related to criminal justice reforms.

(5) The council may appoint a working group to track implementation, evaluate compliance with any legislation resulting from criminal justice reforms, and perform other detailed analysis as directed by the council. If appointed, the working group shall meet regularly and report to the council as the council requires. The working group may include representatives of criminal justice agencies and key constituencies that are not members of the council.

(6) The council may request legislation to enact changes to the state's criminal justice system that the council finds necessary.

(7) The judicial branch, the department of corrections, the

department of public health and human services, the board of pardons and parole, and the legislative services and fiscal divisions shall provide data and information as requested by the council.

(8) Appointments made under subsection (1) must be made within 60 days after [the effective date of this section]. A vacancy on the council must be filled in the manner of the original appointment.

(9) Council members must be reimbursed for travel expenses as provided in 2-18-501 through 2-18-503. Members of the council who are full-time salaried officers or employees of this state or any political subdivision are entitled to their regular compensation. Legislative members must be compensated as provided in 5-2-302.

(10) The council shall report to the law and justice interim committee and the legislative finance committee as requested."

Insert: "NEW SECTION. **Section 4. Department of corrections to report on criminal justice reinvestment legislation impacts.** In addition to any data or reports required by the Montana criminal justice oversight council pursuant to [section 3], the department of corrections shall:

(1) submit an annual report to the Montana criminal justice oversight council by August 15 of each year. The report must include the impact of any legislation related to recommendations from the commission on sentencing established in Chapter 343, Laws of 2015, and the extent to which the department has established and met implementation goals and projections concerning the prison population, recidivism rate, and other key public safety metrics.

(2) report to the legislature by January 1 of each year on the amount of savings generated and on the prison population impact under any legislation resulting from the recommendations of the commission on sentencing established in Chapter 343, Laws of 2015, for the purpose of tracking the progress toward meeting the impact estimates and goals of the legislation."

Insert: "NEW SECTION. **Section 5. Supervision responses grid.**

(1) The department shall revise, maintain, and fully implement the policy known as the Montana incentives and interventions grid. The grid must guide responses to negative and positive behavior by people under supervision by the department, including responses to violations of supervision conditions in a swift, certain, and proportional manner. The grid must include guidance and procedures to determine when and how to:

(a) request a warrant or arrest without a warrant;

(b) use a 72-hour detention;

(c) initiate an intervention hearing;

(d) seek departmental approval to use up to 90-day interventions; and

(e) exhaust appropriate graduated violation responses before initiating the revocation process.

(2) The department shall:

(a) provide information and training on the grid for probation and parole officers and supervisors and for members and staff of the board of pardons and parole; and

(b) offer information and training on the grid to district court judges, prosecution and defense attorneys, law enforcement personnel, and county detention center personnel.

(3) The department shall review the grid every 5 years to ensure it adheres to evidence-based practices and that the use of sanctions and incentives by probation and parole officers is consistent across the state."

Insert: "NEW SECTION. **Section 6. Quality assurance unit -- program standards -- evaluation -- cooperation with department of public health and human services.** (1) There is a quality assurance unit in the department of corrections.

(2) In addition to duties assigned to it by the department director or otherwise required by law, the unit shall:

(a) adopt a program evaluation tool that ensures adherence to evidence-based practices;

(b) conduct evaluations of programs to reduce recidivism that are funded by the state; and

(c) enforce standards to ensure programs are using best practices for reducing recidivism, including targeting highest-risk individuals, adhering to evidence-based or research-driven practices, and integrating opportunities for ongoing quality assurance and evaluation.

(3) Subject to the availability of funding, the department may contract with an independent contractor or academic institution to complete evaluations.

(4) The unit shall work jointly with the department of public health and human services to develop standards for the quality assurance in behavioral health or other clinical programs.

(5) The unit shall conduct regular evaluations of programs operated by the department or under a contract with the department.

(6) After [the effective date of this section], the department shall ensure contracts signed or renewed with providers include minimum program standards, eligibility criteria for program entry, and program dosage requirements that conform with the latest research available on best practices."

Renumber: subsequent sections

5. Page 3, line 18 through line 21.
Strike: section 5 in its entirety

6. Page 3, following line 21.
Insert: "NEW SECTION. **Section 9. Appropriation.** There is appropriated $28,000 from the general fund to the department of corrections for the biennium beginning July 1, 2017, for the purposes of funding the council as provided in [section 3]."

Insert: "NEW SECTION. **Section 10. {standard} Notification to tribal governments.** The secretary of state shall send a copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell Chippewa tribe."

Insert: "NEW SECTION. **Section 11. {standard} Codification instruction.** (1) [Sections 1 and 2] are intended to be codified as an integral part of Title 44, chapter 4, part 3, and the provisions of Title 44, chapter 4, part 3, apply to [sections 1 and 2]

(2) [Section 5] is intended to be codified as an integral part of Title 46, chapter 23, part 10, and the provisions of Title 46, chapter 23, part 10, apply to [section 5].

(3) [Section 6] is intended to be codified as an integral part of Title 53, chapter 1, part 2, and the provisions of Title 53, chapter 1, part 2, apply to [section 6]."

Insert: "COORDINATION SECTION. **Section 12. Coordination instruction.** If both Senate Bill No. 63 and [this act] are passed and approved and if Senate Bill No. 63 contains a section amending 53-1-203, then the section amending 53-1-203 is void and any references in Senate Bill No. 63 to the "incentives and interventions grid adopted under 53-1-203" must be changed to the "incentives and interventions grid adopted under [section 5 of Senate Bill No. 59]."

Insert: "NEW SECTION. **Section 13. Contingent voidness.** (1) Pursuant to Joint Rule 40-65, if [this act] does not include an appropriation prior to being transmitted to the governor, then [section 3 and section 4(1)] are void.

(2) If the appropriation in [section 9] is vetoed, then [section 3 and section 4(1)] are void."

Insert: "NEW SECTION. **Section 14. {standard} Effective dates.** (1) Except as provided in subsections (2) and (3), [this act] is effective on passage and approval.

(2) [Sections 1, 2, 7, and 8] are effective October 1, 2017.

(3) [Section 9] is effective July 1, 2017."

Insert: "NEW SECTION. **Section 15. Termination.** [Sections 3 and 4] terminate on June 30, 2019."

- END -

Montana State Legislature

65th Montana Legislature - 2017

ADDITIONAL DOCUMENTS

Business Report

Signed by Chairman

Roll Call

Attendance

Standing Committee Reports

Tabled Bills

Fiscal Reports

Roll Call Votes

Proxy Forms

Visitor Registration

Additional Documents

Witness Statements that are not presented as exhibits. All informational items handed in after meeting. Petitions; etcetera.

- **Any documents which were submitted after the committee hearing has ended and/or was submitted late within 24 hours regarding information in the committee hearing.**

YOU MAY VIEW THE ORIGINAL DOCUMENTS

AT THE MONTANA HISTORICAL SOCIETY

MONTANA HISTORICAL SOCIETY ARCHIVES
225 N. ROBERTS
HELENA, MT 59620-1201
2017 LEGISLATIVE SESSION
E-DOCUMENT SPECIALIST: SUSIE HAMILTON

BUSINESS REPORT

MONTANA HOUSE OF REPRESENTATIVES
65th LEGISLATURE - REGULAR SESSION

HOUSE JUDICIARY COMMITTEE

Date: Friday, March 10, 2017 **Time:** 8:00 AM
Place: Capitol **Room:** 137

BILLS and RESOLUTIONS HEARD:
SB 28 - Allow Water Court review of certain DNRC decisions - Sen. Chas Vincent

SJ 3 - Interim study of tribal resources for mbrs involved in criminal justice system - Sen. Cynthia Wolken

EXECUTIVE ACTION TAKEN:
SB 59 - Be Concurred In As Amended
SB 60 - Be Concurred In
SB 63 - Be Concurred In
SB 64 - Be Tabled
SB 65 - Be Concurred In As Amended
SB 67 - Be Concurred In
SJ 3 - Be Concurred In
SJ 11 - Be Concurred In

Comments:

REP. Alan Doane, Chair

HOUSE STANDING COMMITTEE REPORT

Mr. Speaker:

We, your committee on **Judiciary** recommend that **Senate Bill 59** (third reading copy -- blue) **be concurred in as amended.**

Signed: _____
Representative Alan Doane, Chair

To be carried by Representative Kathy Kelker

And, that such amendments read:

1. Title, page 1, line 10.
Following: "DETAINED;"
Insert: "CREATING AN OVERSIGHT COUNCIL TO MONITOR AND REPORT ON THE EFFECTS OF CRIMINAL JUSTICE LEGISLATION; REQUIRING THE QUALITY ASSURANCE UNIT OF THE DEPARTMENT OF CORRECTIONS TO ADOPT AN EVALUATION TOOL AND CONDUCT PROGRAM EVALUATIONS; REQUIRING THE DEPARTMENT TO ADOPT AND MAINTAIN AN INCENTIVES AND INTERVENTIONS GRID TO GUIDE COMMUNITY SUPERVISION OF OFFENDERS;"

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4. Page 2, following line 20.
Insert: "NEW SECTION. **Section 3. Montana criminal justice oversight council -- duties -- membership.** (1) There is a Montana

Committee Vote:
Yes 19, No 0
Fiscal Note Required __

SB0059001SC16507.hts

criminal justice oversight council. The council consists of 12 members as follows:

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(b) one member selected by the chief justice of the Montana supreme court;

(c) the director of the department of corrections or the director's designee;

(d) an employee of the department of corrections selected by the director who has expertise in data collection and reporting;

(e) one member selected by the director of the department of public health and human services who has expertise in behavioral health treatment services;

(f) the executive director of the board of crime control or the director's designee;

(g) a county sheriff appointed by the attorney general; and

(h) the following individuals appointed by the governor:

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(3) Subject to the availability of funding, the department may contract with an independent contractor or academic institution to complete evaluations.

(4) The unit shall work jointly with the department of public health and human services to develop standards for the quality assurance in behavioral health or other clinical programs.

(5) The unit shall conduct regular evaluations of programs operated by the department or under a contract with the department.

(6) After [the effective date of this section], the department shall ensure contracts signed or renewed with providers include minimum program standards, eligibility criteria for program entry, and program dosage requirements that conform with the latest research available on best practices."
Renumber: subsequent sections

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Strike: section 5 in its entirety

6. Page 3, following line 21.
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Insert: "NEW SECTION. **Section 11. Codification instruction.** (1) [Sections 1 and 2] are intended to be codified as an integral part of Title 44, chapter 4, part 3, and the provisions of Title 44, chapter 4, part 3, apply to [sections 1 and 2]
(2) [Section 5] is intended to be codified as an integral part of Title 46, chapter 23, part 10, and the provisions of Title 46, chapter 23, part 10, apply to [section 5].
(3) [Section 6] is intended to be codified as an integral part of Title 53, chapter 1, part 2, and the provisions of Title 53, chapter 1, part 2, apply to [section 6]."
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Insert: "NEW SECTION. **Section 13. Contingent voidness.** (1) Pursuant to Joint Rule 40-65, if [this act] does not include an appropriation prior to being transmitted to the governor, then [section 3 and section 4(1)] are void.
(2) If the appropriation in [section 9] is vetoed, then [section 3 and section 4(1)] are void."
Insert: "NEW SECTION. **Section 14. Effective dates.** (1) Except as provided in subsections (2) and (3), [this act] is effective on passage and approval.
(2) [Sections 1, 2, 7, and 8] are effective October 1, 2017.
(3) [Section 9] is effective July 1, 2017."
Insert: "NEW SECTION. **Section 15. Termination.** [Sections 3 and 4] terminate on June 30, 2019."

- END -

The Big Sky Country

MONTANA HOUSE OF REPRESENTATIVES

JUDICIARY COMMITTEE

ROLL CALL

DATE: 3/10/17

NAME	PRESENT	ABSENT/EXCUSED
REP. SETH BERGLEE, VICE CHAIR	✓	
REP. VIRGINIA COURT, VICE CHAIR	✓	
REP. KATHY KELKER	✓	
REP. BOB BROWN	✓	
REP. BARRY USHER	✓	
REP. DALE MORTENSEN	✓	
REP. JENNY ECK	✓	
REP. LAURIE BISHOP	✓	
REP. ELLIE HILL SMITH	✓	
REP. NATE MCCONNELL	✓	
REP. KIRK WAGONER	✓	
REP. MATT REGIER	✓	
REP. BILL HARRIS	✓	
REP. LOLA SHELDON-GALLOWAY	✓	
REP. THERESA MANZELLA	✓	
REP. CASEY KNUDSEN		✓
REP. ZAC PERRY	✓	
REP. SHANE MORIGEAU	✓	
REP. ALAN DOANE, CHAIR	✓	

19 MEMBERS

The Big Sky Country

MONTANA HOUSE OF REPRESENTATIVES

AUTHORIZED COMMITTEE PROXY
65TH LEGISLATIVE SESSION

I request to be excused from the Judiciary Committee.

I desire to leave my proxy vote with Rep. Berglee.

BILL	AYE	NO
SB005901, ARW	X	
SB 59 DC	X	
SB 60 DC	X	
SB 63 DC	X	
SB 64 Table	X	
SB 0065 03. ARW		X
SB 65	X	
SB 67	X	
SJ 3	X	
SJ 11	X	

BILL	AYE	NO

I authorize my vote to be matched with that of Rep. Berglee for any amendments proposed on this date.

Rep. _____ Date 10 March 17
(Signature)

The Big Sky Country

MONTANA HOUSE OF REPRESENTATIVES

AUTHORIZED
COMMITTEE PROXY
65TH LEGISLATIVE SESSION

I request to be excused from the Judiciary Committee.

I desire to leave my proxy vote with Rep. Court.

BILL	AYE	NO
SB 59 AMEND	X	
SB 59 AS AMEND	X	
SB 60	X	
SB 63	X	
SB 64 TABLE		X
SB 65 AMEND	X	
SB 65 AS AMEND	X	
SB 67	X	
SJ 3	X	
SJ 11		X
~~SB 305 AMEND~~		

BILL	AYE	NO

I authorize my vote to be matched with that of Rep. Court for any amendments proposed on this date.

Rep. _____ Date 3/10/17
(Signature)

Jenny ECK

The Big Sky Country

MONTANA HOUSE OF REPRESENTATIVES

AUTHORIZED COMMITTEE PROXY 65TH LEGISLATIVE SESSION

I request to be excused from the Judiciary Committee.

I desire to leave my proxy vote with Rep. Virginia Court.

BILL	AYE	NO
SB59 AMEND	X	
SB59 AS AMEND	X	
SB60	X	
SB63	X	
SB64 TO TABLE		X
SB65 AMEND	X	
SB65 AS AMEND	X	
SB67	X	
SJ3	X	
SJ11		X
~~SB305 on Mar 23rd~~		

BILL	AYE	NO

I authorize my vote to be matched with that of Rep. Nate McConnell for any amendments proposed on this date.

Rep. Ellie Hill Smith
(Signature)

Date 3/10/17

GOVERNOR'S OFFICE OF BUDGET AND PROGRAM PLANNING

Fiscal Note 2019 Biennium

Bill #	SB0059	**Title:**	Generally revise criminal justice laws
Primary Sponsor:	Wolken, Cynthia	**Status:**	As Amended

☐Significant Local Gov Impact ☐Needs to be included in HB 2 ☐Technical Concerns

☐Included in the Executive Budget ☐Significant Long-Term Impacts ☐Dedicated Revenue Form Attached

FISCAL SUMMARY

	FY 2018 Difference	FY 2019 Difference	FY 2020 Difference	FY 2021 Difference
Expenditures:				
General Fund	$136,443	$108,443	$110,070	$111,721
Revenue:				
General Fund	$0	$0	$0	$0
Net Impact-General Fund Balance:	($136,443)	($108,443)	($110,070)	($111,721)

Description of fiscal impact: The amended version of SB 59 adds the establishment of the Montana Criminal Justice Oversight Council to track the implementation of justice reinvestment legislation related to the Commission on Sentencing.

FISCAL ANALYSIS

Assumptions:

Department of Corrections

1. SB 59 creates an oversight council to report on the effects of criminal justice legislation. This bill requires the Department of Corrections (DOC) Quality Assurance Unit to adopt an evaluation tool and conduct program evaluations. Upon passage of this legislation, the department is also required to adopt and maintain an incentives and interventions grid to guide community supervision of offenders.
2. This bill designates the director of DOC, or designee, as the presiding officer of the oversight council and would require DOC staff to analyze data, enforce standards, and submit reports to the oversight council and legislature.
3. This bill would require DOC to hire an additional economist or statistician to conduct data analyses. The annual salary and benefits for a statistician is $108,443 in FY2018 and FY2019. Currently, $100,000 of the annual salary and benefits for a statistician FTE is funded as one-time-only in NP 143 of HB 2 for the FY 2019 biennium.

4. Section 9 contains a general fund appropriation of $28,000 for the biennium beginning July 1, 2017, to fund the Department of Corrections to establish the Oversight Council.
5. The Constitutional Amendment known as Marsy's Law substantially expands the definition of a victim and requires that victims be notified of and have the option to be present at all proceedings that involve preparing an offender for actual or potential release or alternative placement. The Department of Corrections therefore anticipates that the implementation of Marsy's Law will increase the cost of any bill that could involve victim notification.

Montana Board of Crime Control

6. The Montana Board of Crime Control is the US Department of Justice State Administering Agency which allows the agency to access certain types of grant funding.
7. Section 1 of the bill indicates that the pretrial grant program should be developed and administered within the limits of available funds. There are no resources available within existing budgets to implement such a program, therefore no actions would be taken.
8. Section 2 of the bill indicates that the prosecution diversion grant program should be developed and administered within the limits of available funds. There are no resources available within existing budgets to implement such a program, therefore no actions would be taken.
9. The agency will pursue available federal grants for both programs. If federal grants were received to fund a grant program, or if the legislature were to appropriate general fund for the grant programs, the agency would need a 0.25 FTE program manager and a 0.25 FTE accountant per program with a combined salary and benefits cost of $44,304 per year.
10. It is assumed that the costs for the Executive Director appointed to the Criminal Justice Oversight Council will be absorbed by current agency operation funding.

	FY 2018 Difference	FY 2019 Difference	FY 2020 Difference	FY 2021 Difference
Fiscal Impact:				
FTE	1.00	1.00	1.00	1.00
Expenditures:				
Personal Services	$108,443	$108,443	$110,070	$111,721
Council Expenses	$28,000	$0	$0	$0
TOTAL Expenditures	$136,443	$108,443	$110,070	$111,721
Funding of Expenditures:				
General Fund (01)	$136,443	$108,443	$110,070	$111,721
TOTAL Funding of Exp.	$136,443	$108,443	$110,070	$111,721
Revenues:				
General Fund (01)	$0	$0	$0	$0
TOTAL Revenues	$0	$0	$0	$0
Net Impact to Fund Balance (Revenue minus Funding of Expenditures):				
General Fund (01)	($136,443)	($108,443)	($110,070)	($111,721)

Sponsor's Initials *Date* *Budget Director's Initials* *Date*

MINUTES

MONTANA SENATE
65th LEGISLATURE - REGULAR SESSION

FREE CONFERENCE COMMITTEE ON SENATE BILL 59

Call to Order: Chair Keith Regier, on March 28, 2017 at 11:31 A.M., in Room 350 Capitol

ROLL CALL

Members Present:

Sen. Keith Regier, Chair (R)
Rep. Ryan Lynch, Chair (D)
Rep. Randy Brodehl (R)
Rep. Jimmy Patelis (R)
Sen. Chas Vincent (R)
Sen. Cynthia Wolken (D)

Members Excused: None

Members Absent: None

Staff Present: Rachel Weiss, Legislative Branch
Nadine Spencer, Committee Secretary

Audio Committees: These minutes are in outline form only. They provide a list of participants and a record of official action taken by the committee. The link to the audio recording of the meeting is available on the Legislative Branch website.

Committee Business Summary:

Discussion on SB 59

Scheduled Executive Action for March 30, 2017

DISCUSSION ON SB 59

00:00:24 Chair Regier

00:00:37 Sen. Wolken
00:02:33 Chair Regier
00:02:49 Sen. Vincent
00:03:16 Rachel Weiss, Legislative Services Division (LSD)
EXHIBIT(frs64sb0059a01)

00:03:41 Chair Regier
00:03:57 Ms. Weiss, LSD
00:04:23 Chair Regier
00:05:02 Ms. Weiss
EXHIBIT(frs64sb0059a02)

00:14:46 Chair Regier
00:15:01 Rep. Patelis
00:15:58 Chair Regier
00:16:04 Rep. Patelis
00:16:10 Sen. Vincent
00:17:09 Rep. Patelis
00:17:30 Sen. Vincent
00:18:06 Sen. Wolken
00:20:51 Sen. Vincent
00:22:06 Deb Matteucci, director, Montana Board of Crime Control (MBCC)
00:23:18 Sen. Vincent
00:23:48 Ms. Matteucci
00:24:04 Sen. Vincent
00:24:22 Beth McLaughlin, administrator, Montana Supreme Court (MSC)
00:24:30 Sen. Vincent
00:24:52 Ms. McLaughlin, MSC
00:25:08 Sen. Vincent
00:25:19 Sen. Wolken
00:25:27 Rep. Brodehl
00:26:08 Sen. Wolken
00:26:29 Sen. Vincent
00:26:58 Rep. Brodehl
00:27:02 Chair Regier
00:27:06 Sen. Vincent
00:27:48 Sen. Wolken
00:29:19 Rep. Lynch
00:29:53 Ms. McLaughlin
00:30:48 Sen. Vincent
00:31:19 Sen. Wolken
00:31:40 Chair Regier
00:31:43 Sen. Wolken
00:32:05 Rep. Patelis
00:33:07 Rep. Lynch
00:33:23 Chair Regier

00:33:32	Rep. Patelis
00:33:47	Ms. Weiss
00:34:35	Chair Regier
00:34:40	Sen. Vincent
00:34:46	Chair Regier
00:35:13	Sen. Wolken
00:35:19	Chair Regier
00:35:22	Sen. Wolken
00:35:33	Rep. Lynch
00:36:00	Chair Regier

ADJOURNMENT

Adjournment: 12:07 PM

Nadine Spencer, Secretary

ns

Additional Documents:

EXHIBIT(frs64sb0059aad.pdf)

• edited
• needs additional info.

SENATE Free Conference
Exhibit No. 1
Date 3/28/2017
Bill No. SB 59

Amendments to Senate Bill No. 59
Reference Copy

Requested by Representative Jimmy Patelis

For the Senate Free Conference Committee

Prepared by Rachel Weiss
March 28, 2017 (9:39am)

1. Title, page 1, line 6.
Strike: "BOARD OF CRIME CONTROL"
Insert: "OFFICE OF COURT ADMINISTRATOR"

2. Title, page 1, line 8.
Strike: "PROGRAMS"
Insert: "PROSECUTION DIVERSION PROGRAM"
Strike: "ALLOWING"
Insert: "REQUIRING"

3. Title, page 1, line 14.
Following: "OFFENDERS;"
Insert: "REQUIRING THE COLLECTION OF CERTAIN DATA AND THE PROVISION OF CERTAIN REPORTS;"

4. Title, page 1, line 16.
Strike: "SECTION"
Insert: "SECTIONS 3-1-702 AND"

5. Page 1, line 23.
Strike: "board of crime control"
Insert: "office of court administrator"
Following: "pretrial"
Strike: "grant program to encourage local adoption of"
Insert: "program for felony defendants that includes the use of"

6. Page 1, following line 26.
Insert: "(2) The office of court administrator may use program funds to:

(a) develop, implement, and administer the pretrial program; and

(b) make allocations to counties or nonprofit organizations contracting with a county to provide pretrial services."
Renumber: subsequent subsections

7. Page 1, line 27.
Strike: "Grant"
Insert: "Allocated"

8. Page 1, line 28.

Following: "pretrial"
Insert: "felony"

9. Page 1, line 28 through line 29.
Strike: "A county" on line 28 through "a grant." on line 29

10. Page 1, line 30.
Strike: "board"
Insert: "office"

11. Page 2, line 1.
Following: "services"
Strike: "," through "receipt"
Insert: "and activities and the criteria for the allocation"

12. Page 2, line 2.
Following: "funds by"
Insert: "counties and"

13. Page 2, line 3.
Following: "section;"
Strike: "and"
Insert: "(d) establish an advisory council that includes local and district court judges and other stakeholders to provide guidance to the office; and"
Renumber: subsequent subsections

14. Page 2, line 4.
Strike: "adopt rules"
Insert: "develop policies and procedures"
Following: "section"
Insert: ", subject to approval of the supreme court"

15. Page 2, line 5.
Strike: "Grants"
Insert: "Funds"

16. Page 2, line 6.
Strike: "board"
Insert: "office"

17. Page 2, line 7.
Strike: "(4)(b)"
Insert: "(5)(b)"

18. Page 2, line 8.
Strike: "board"
Insert: "office"

19. Page 2, following line 9.
Insert: "(c) The board of crime control shall actively seek federal grant funds that can be directed to the office of court administrator for the purposes of implementing and administering the provisions of this section. The board may use up to XXX% of the grant funds received to cover costs incurred by the board to seek and report on the grant funds."

20. Page 2, line 29.
Strike: "12"
Insert: "15"

21. Page 2, line 30 through page 3, line 2.
Strike: subsection (A) in its entirety
Insert: "(a) (i) two members of the house of representatives, one selected by the speaker of the house and one by the house minority leader; and
(ii) two members of the senate, one selected by the president of the senate and one selected by the senate minority leader;"

22. Page 3, line 16 through line 17.
Strike: subsection (IV) in its entirety
Insert: "(iv) two representatives of community corrections providers, one of whom must represent a treatment facility and one of whom must represent a prerelease center."

23. Page 3, line 26.
Following: "RECOMMENDATIONS"
Following: ", including data related to the programs established in [sections 1 and 2]"

24. Page 4, following line 1.
Insert: "(4) Data evaluation performed by the council must:
(a) assess the current electronic records utilized by criminal justice agencies;
(b) review and list all variables collected in each agency's information management system;
(c) establish a baseline for historical data comparisons;
(d) determine whether data is linked to specific offenders through a unique identifying factor;
(e) review archival data and agencies' data retention policies;
(f) determine whether presentence investigation reports are completed electronically in the department of corrections' case management system within established statutory timelines;
(g) review any established data protocols for pretrial services;
(h) assess if the data collected or recommended to be

collected on offenders and programs will provide criminal justice agencies, the legislature, and the public adequate information to determine whether correctional programs produce standardized outcomes across the state and are an efficient use of state resources; and

(i) review and suggest improvements for behavioral health screening instruments and other screening instruments as needed to ensure the integrity of data that is captured in criminal justice agencies' information management systems.

(5) The council shall examine the feasibility of creating and maintaining a public portal through which criminal justice data can be accessed, including data on court case filings, correctional populations, and historical and legacy data sets."

Renumber: subsequent subsections

25. Page 4, line 6.
Strike: "AND"

26. Page 4, line 7.
Following: "REFORMS"
Insert: "; and

(d) a narrative of the council's progress on establishing data collection and uniformity standards and any changes that have been implemented as a result of the council's work"

27. Page 5, line 1.
Following: "INCLUDE"
Insert: ": (a)"

28. Page 5, line 2.
Following: "2015"
Strike: ", AND"
Insert: "; (b)"

29. Page 5, line 4.
Following: "METRICS"
Insert: "; and

(c) the results of initial and ongoing program evaluations that the department is required by [section 6] to conduct, including any identified program deficiencies and the department's plan to correct those deficiencies"

30. Page 5, line 10.
Following: "GRID"
Insert: " -- report"

31. Page 5, line 19.
Following: "EXHAUST"
Insert: "and document"

32. Page 5, following line 19.
Insert: "(2) The grid must recommend the least restrictive placement for offenders based on the result of a validated risk and needs assessment. Placement decisions must be documented in the offender's file and must indicate any other less secure sanction options considered by the probation and parole officer before utilizing a higher level of custody."
Renumber: subsequent subsections

33. Page 5, line 22.
Following: "PAROLE;"
Strike: "AND"

34. Page 5, line 24.
Following: "LAW ENFORCEMENT PERSONNEL,"
Strike: "AND"
Following: "DETENTION CENTER PERSONNEL"
Strike: "."
Insert: ", contracted service providers, and other interested personnel;"

35. Page 5, line 25.
Strike: "(3) THE DEPARTMENT SHALL"
Insert: "(c)"
Following: "ENSURE"
Insert: "that"

36. Page 5, line 27.
Following: "STATE"
Strike: "."
Insert: "; (d) ensure that the guidance and procedures established in the grid consider community safety and the needs of the victim and offender;
(e) collect data relating to placement decisions based on the grid; and
(f) aggregate collected data and provide a report to the law and justice interim committee each biennium."

37. Page 5, line 30.
Following: "SERVICES"
Insert: " -- report"

38. Page 6, line 4.
Following: "ADOPT"
Strike: "A"
Insert: "an evidence-based"
Following: "THAT"
Strike: "ENSURES" through "PRACTICES;"

Insert: "measures how closely correctional programs meet the known principles of effective intervention. The tool must measure program content and capacity to ensure the delivery of effective interventions for offenders."

39. Page 6, line 6.
Following: "ENSURE"
Insert: "that"

40. Page 6, line 12.
Following: "STANDARDS FOR"
Strike: "THE"
Following: "HEALTH"
Insert: "PROGRAMS"

41. Page 6, following line 14.
Insert: "(6) The department shall:

(a) develop and maintain a list of evidence-based treatment curriculums to be utilized in programs operated by or under contract with the department with priority being placed on adopting treatment curriculums that are in the public domain and evidence-based; and

(b) report the results of all initial and ongoing program evaluations to the law and justice interim committee each interim, including any identified program deficiencies and the department's plan to correct those deficiencies."
Renumber: subsequent subsections

42. Page 6, line 15.
Following: "ENSURE"
Insert: "that"

43. Page 6, line 16 through 17.
Strike: "INCLUDE" on line 16 through "PRACTICES" on line 17
Insert: "contain:

(a) minimum program standards that adhere to the evidence-based program evaluation tool adopted as required in subsection (2);

(b) offender eligibility criteria for program entry with the contractor; and

(c) program dosage requirements that conform to evidence-based practices"

44. Page 6, line 18.
Insert: "**Section 7.** Section 3-1-702, MCA, is amended to read:

"**3-1-702. Duties.** The court administrator is the administrative officer of the court. Under the direction of the supreme court, the court administrator shall:

(1) prepare and present judicial budget requests to the

legislature, including the costs of the state-funded district court program;

(2) collect, compile, and report statistical and other data relating to the business transacted by the courts and provide the information to the legislature on request;

(3) report annually to the law and justice interim committee and at the beginning of each regular legislative session report to the house appropriations subcommittee that considers general government on the status of development and procurement of information technology within the judicial branch, including any changes in the judicial branch information technology strategic plan and any problems encountered in deploying appropriate information technology within the judicial branch. The court administrator shall, to the extent possible, provide that current and future applications are coordinated and compatible with the standards and goals of the executive branch as expressed in the state strategic information technology plan provided for in 2-17-521.

(4) recommend to the supreme court improvements in the judiciary;

(5) administer legal assistance for indigent victims of domestic violence, as provided in 3-2-714;

(6) administer state funding for district courts, as provided in chapter 5, part 9;

(7) administer and report on the child abuse court diversion pilot project provided in 41-3-305;

(8) administer the pretrial program provided for in [section 1];

~~(8)~~(9) administer the judicial branch personnel plan; and

~~(9)~~(10) perform other duties that the supreme court may assign. (Subsection (7) terminates June 30, 2017--sec. 7, Ch. 376, L. 2015.)"

{*Internal References to 3-1-702: None.*}"

Renumber: subsequent sections

45. Page 6, line 22.
Strike: "may"
Insert: "shall"

46. Page 6, line 26.
Strike: subsection (b) in its entirety
Renumber: subsequent subsections

47. Page 7, line 9.
Following: "community."
Insert: "The court shall order the least restrictive conditions when determining conditions and release options."

48. Page 7, line 27.
Strike: "[SECTIONS 1 AND 2] ARE"

Insert: "[Section 1] is"

49. Page 7, line 28.
Following: "INTEGRAL PART OF"
Strike: "TITLE 44, CHAPTER 4, PART 3,"
Insert: "Title 3, chapter 1, part 7,"

50. Page 7, line 28 through line 29.
Strike: "TITLE 44" on line 28 through "3," on line 29
Insert: "Title 3, chapter 1, part 7,"

51. Page 7, line 29.
Strike: "[SECTIONS 1 AND 2]."
Insert: "[section 1].
(2) [Section 2] is intended to be codified as an integral part of Title 44, chapter 4, part 3, and the provisions of Title 44, chapter 4, part 3, apply to [section 2]."
Renumber: subsequent subsections

52. Page 8, line 12.
Following: "APPROPRIATION"
Insert: "for the purposes of funding [section 3]"

53. Page 8, line 14.
Strike: "9"
Insert: "10"

54. Page 8, following line 14.
Insert: "(3) If House Bill No. 2 is passed and approved and if it does not include funding for the pretrial program established in [section 1], then [sections 1, 7, and 8] are void."

55. Page 8, line 18.
Strike: "AND"
Following: "8,"
Insert: "and 9"

56. Page 8, line 19.
Strike: "9"
Insert: "10"

- END -

C3 amendments
not official or edited
- for discussion only

SENATE Free Conference
Exhibit No. 2
3/28/2017
SB 59

SENATE BILL NO. 59 grey bill with amendment SB005903.arw

INTRODUCED BY C. WOLKEN

BY REQUEST OF THE COMMISSION ON SENTENCING

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING CRIMINAL JUSTICE LAWS; REQUIRING THE ~~BOARD OF CRIME CONTROL~~ OFFICE OF COURT ADMINISTRATOR TO CREATE A PRETRIAL GRANT PROGRAM; REQUIRING THE BOARD OF CRIME CONTROL TO CREATE A PROSECUTION DIVERSION GRANT PROGRAM; GRANTING THE BOARD RULEMAKING AUTHORITY TO ADMINISTER THE ~~PROGRAMS~~ PROSECUTION DIVERSION PROGRAM; ~~ALLOWING~~ REQUIRING A COURT TO USE INFORMATION FROM A PRETRIAL RISK ASSESSMENT TOOL WHEN DETERMINING WHETHER A DEFENDANT SHOULD BE RELEASED OR DETAINED; CREATING AN OVERSIGHT COUNCIL TO MONITOR AND REPORT ON THE EFFECTS OF CRIMINAL JUSTICE LEGISLATION; REQUIRING THE QUALITY ASSURANCE UNIT OF THE DEPARTMENT OF CORRECTIONS TO ADOPT AN EVALUATION TOOL AND CONDUCT PROGRAM EVALUATIONS; REQUIRING THE DEPARTMENT TO ADOPT AND MAINTAIN AN INCENTIVES AND INTERVENTIONS GRID TO GUIDE COMMUNITY SUPERVISION OF OFFENDERS; REQUIRING COLLECTION OF CERTAIN DATA AND THE PROVISION OF CERTAIN REPORTS; ELIMINATING THE REQUIREMENT THAT A JUDGE OR JUSTICE OF THE PEACE REPORT DRUG USERS TO THE COUNTY ATTORNEY; PROVIDING AN APPROPRIATION; AMENDING ~~SECTION~~ SECTIONS 7-1-702 AND 46-9-109, MCA; ~~AND~~ REPEALING SECTION 46-9-203, MCA; PROVIDING FOR CONTINGENT VOIDNESS; AND PROVIDING EFFECTIVE DATES AND A TERMINATION DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Pretrial program -- rulemaking.** (1) Within the limits of available funds, the ~~board of crime control~~ OFFICE OF COURT ADMINISTRATOR shall develop and administer a pretrial ~~grant program to encourage local adoption of~~ PROGRAM FOR FELONY DEFENDANTS THAT INCLUDES USE OF:

(a) a validated pretrial risk assessment tool; and

(b) a dangerousness or lethality assessment for individuals charged with an offense of partner or family member assault.

(2) THE OFFICE OF COURT ADMINISTRATOR MAY USE PROGRAM FUNDS TO:

(A) DEVELOP, IMPLEMENT, AND ADMINISTER THE PRETRIAL PROGRAM; AND

(B) MAKE ALLOCATIONS TO COUNTIES OR NONPROFIT ORGANIZATIONS CONTRACTING WITH A COUNTY TO PROVIDE PRETRIAL SERVICES.

~~(2)~~(3) ~~Grant~~ ALLOCATED funds may be used for pretrial services staff, to obtain assessment instruments, and to provide supervision of pretrial FELONY defendants. ~~A county or a nonprofit organization contracting with a county to provide the pretrial services may be eligible for a grant.~~

~~(3)~~(4) In administering the pretrial program, the ~~board~~ OFFICE shall:

(a) identify priorities for funding ~~services, activities, and criteria for the receipt~~ AND ACTIVITIES AND THE CRITERIA FOR THE ALLOCATION of program funds;

(b) monitor the expenditure of funds by COUNTIES AND organizations receiving funds under this section;

(c) evaluate the effectiveness of services and activities under this section; ~~and~~

(D) ESTABLISH AN ADVISORY COUNCIL THAT INCLUDES LOCAL AND DISTRICT COURT JUDGES AND OTHER STAKEHOLDERS TO PROVIDE GUIDANCE TO THE OFFICE; AND

~~(d)~~(E) ~~adopt rules~~ DEVELOP POLICIES AND PROCEDURES necessary to implement this section, SUBJECT TO APPROVAL OF THE SUPREME COURT.

~~(4)~~(5) (a) ~~Grants~~ FUNDS available under subsection (1) consist of state appropriations and federal funds received by the ~~board~~ OFFICE for the purposes of administering the pretrial program or any funds received pursuant to subsection ~~(4)(b)~~(5)(a).

(b) The ~~board~~ OFFICE may accept gifts, grants, and donations from other public or private sources, which must be used within the scope of this section.

(C) THE BOARD OF CRIME CONTROL SHALL ACTIVELY SEEK FEDERAL GRANT FUNDS THAT CAN BE DIRECTED TO THE OFFICE OF COURT ADMINISTRATOR FOR THE PURPOSES OF IMPLEMENTING AND ADMINISTERING THE PROVISIONS OF THIS SECTION. THE BOARD MAY USE UP TO XXX% OF THE GRANT FUNDS RECEIVED TO COVER COSTS INCURRED BY THE BOARD TO SEEK AND REPORT ON THE GRANT FUNDS.

NEW SECTION. **Section 2. Prosecution diversion program -- rulemaking.** (1) Within the limits of available funds, the board of crime control shall develop and administer a prosecution diversion grant program to encourage local adoption of prosecution diversion programs under 46-16-130.

(2) Grant funds may be used for staff, to provide supervision, or to contract for program services for defendants in the program. A county attorney or a nonprofit organization contracting with a county attorney may be eligible for a grant.

(3) In administering the prosecution diversion program, the board shall:

(a) identify priorities for funding services, activities, and criteria for the receipt of program funds;

(b) monitor the expenditure of funds by organizations receiving funds under this section;

(c) evaluate the effectiveness of services and activities under this section; and

(d) adopt rules necessary to implement this section.

(4) (a) Grants available under subsection (1) consist of state appropriations and federal funds received by the board for the purposes of administering the prosecution diversion program or any funds received pursuant to subsection (4)(b).

(b) The board may accept gifts, grants, and donations from other public or private sources, which must be used within the scope of this section.

NEW SECTION. **Section 3. Montana criminal justice oversight council -- duties -- membership.** (1) There is a Montana criminal justice oversight council. The council consists of ~~12~~ 15 members as follows:

~~(a) one member of the house of representatives selected by the speaker of the house and one member of the senate selected by the president of the senate. The legislative members must be selected in consultation with the minority leaders and may not be of the same political party;~~

(a) (i) two members of the house of representatives, one selected by the speaker of the house and one by the house minority leader; and

(ii) two members of the senate, one selected by the president of the senate and one selected by the senate minority leader;

(b) one member selected by the chief justice of the Montana supreme court;

(c) the director of the department of corrections or the director's designee;

(d) an employee of the department of corrections selected by the director who has expertise in data collection and reporting;

(e) one member selected by the director of the department of public health and human

SERVICES WHO HAS EXPERTISE IN BEHAVIORAL HEALTH TREATMENT SERVICES;

(F) THE EXECUTIVE DIRECTOR OF THE BOARD OF CRIME CONTROL OR THE DIRECTOR'S DESIGNEE;

(G) A COUNTY SHERIFF APPOINTED BY THE ATTORNEY GENERAL; AND

(H) THE FOLLOWING INDIVIDUALS APPOINTED BY THE GOVERNOR:

(I) A MEMBER OF A STATE-RECOGNIZED OR FEDERALLY RECOGNIZED INDIAN TRIBE LOCATED WITHIN THE BOUNDARIES OF THE STATE OF MONTANA WHO HAS EXPERTISE IN CRIMINAL JUSTICE;

(II) ONE MEMBER OF THE BOARD OF PARDONS AND PAROLE;

(III) ONE REPRESENTATIVE OF CRIME VICTIMS; AND

~~(IV) ONE REPRESENTATIVE OF A COMMUNITY CORRECTIONS FACILITY, TREATMENT FACILITY, OR PRERELEASE CENTER.~~

(IV)) TWO REPRESENTATIVES OF COMMUNITY CORRECTIONS PROVIDERS, ONE OF WHOM MUST REPRESENT A TREATMENT FACILITY AND ONE OF WHOM MUST REPRESENT A PRERELEASE CENTER.

(2) THE DIRECTOR OF THE DEPARTMENT OF CORRECTIONS OR THE DIRECTOR'S DESIGNEE SHALL SERVE AS PRESIDING OFFICER.

(3) THE COUNCIL SHALL:

(A) REVIEW THE RECOMMENDATIONS OF THE COMMISSION ON SENTENCING ESTABLISHED IN CHAPTER 343, LAWS OF 2015, AND OVERSEE IMPLEMENTATION OF AND COMPLIANCE WITH ANY LEGISLATION RESULTING FROM THOSE RECOMMENDATIONS;

(B) RECEIVE AND ANALYZE DATA COLLECTED BY AGENCIES AND ENTITIES CHARGED WITH IMPLEMENTING THE RECOMMENDATIONS OF THE COMMISSION ON SENTENCING AND THAT ARE COLLECTING DATA DURING THE IMPLEMENTATION AND MANAGEMENT OF SPECIFIC RECOMMENDATIONS, INCLUDING DATA RELATED TO THE PROGRAMS ESTABLISHED IN [SECTIONS 1 AND 2];

(C) ASSESS OUTCOMES FROM THE RECOMMENDATIONS THE COMMISSION ON SENTENCING HAS MADE AND CORRESPONDING CRIMINAL JUSTICE REFORMS;

(D) REQUEST, RECEIVE, AND REVIEW DATA AND REPORT ON PERFORMANCE OUTCOME DATA RELATING TO CRIMINAL JUSTICE REFORM; AND

(E) RECEIVE REPORTS REQUIRED BY [SECTION 4] TO BE PRODUCED BY THE DEPARTMENT OF CORRECTIONS.

[4) DATA EVALUATION PERFORMED BY THE COUNCIL MUST:

[A) ASSESS THE CURRENT ELECTRONIC RECORDS UTILIZED BY CRIMINAL JUSTICE AGENCIES;

(B) REVIEW AND LIST ALL VARIABLES COLLECTED IN EACH AGENCY'S INFORMATION MANAGEMENT SYSTEM;

(C) ESTABLISH A BASELINE FOR HISTORICAL DATA COMPARISONS;

(D) DETERMINE WHETHER DATA IS LINKED TO SPECIFIC OFFENDERS THROUGH A UNIQUE IDENTIFYING FACTOR;

(E) REVIEW ARCHIVAL DATA AND AGENCIES' DATA RETENTION POLICIES;

(F) DETERMINE WHETHER PRESENTENCE INVESTIGATION REPORTS ARE COMPLETED ELECTRONICALLY IN THE DEPARTMENT OF CORRECTIONS' CASE MANAGEMENT SYSTEM WITHIN ESTABLISHED STATUTORY TIMELINES;

(G) REVIEW ANY ESTABLISHED DATA PROTOCOLS FOR PRETRIAL SERVICES;

(H) ASSESS IF THE DATA COLLECTED OR RECOMMENDED TO BE COLLECTED ON OFFENDERS AND PROGRAMS WILL PROVIDE CRIMINAL JUSTICE AGENCIES, THE LEGISLATURE, AND THE PUBLIC ADEQUATE INFORMATION TO DETERMINE WHETHER CORRECTIONAL PROGRAMS PRODUCE STANDARDIZED OUTCOMES ACROSS THE STATE AND ARE AN EFFICIENT USE OF STATE RESOURCES; AND

(I) REVIEW AND SUGGEST IMPROVEMENTS FOR BEHAVIORAL HEALTH SCREENING INSTRUMENTS AND OTHER SCREENING INSTRUMENTS AS NEEDED TO ENSURE THE INTEGRITY OF DATA THAT IS CAPTURED IN CRIMINAL JUSTICE AGENCIES' INFORMATION MANAGEMENT SYSTEMS.

(5) THE COUNCIL SHALL EXAMINE THE FEASIBILITY OF CREATING AND MAINTAINING A PUBLIC PORTAL THROUGH WHICH CRIMINAL JUSTICE DATA CAN BE ACCESSED, INCLUDING DATA ON COURT CASE FILINGS, CORRECTIONAL POPULATIONS, AND HISTORICAL AND LEGACY DATA SETS.

~~(4)~~(6) THE COUNCIL SHALL SUBMIT BY SEPTEMBER 1 OF EACH EVEN-NUMBERED YEAR A BIENNIAL REPORT TO THE GOVERNOR AND LEGISLATURE, AS PROVIDED IN 5-11-210. THE REPORT MUST INCLUDE:

(A) A DESCRIPTION OF THE COUNCIL'S PROCEEDINGS SINCE THE PREVIOUS REPORT;

(B) A SUMMARY OF SAVINGS FROM CRIMINAL JUSTICE REFORMS AND RECOMMENDATIONS FOR HOW THE SAVINGS SHOULD BE REINVESTED TO REDUCE RECIDIVISM; ~~AND~~

(C) A DESCRIPTION OF PERFORMANCE MEASURES AND OUTCOMES RELATED TO CRIMINAL JUSTICE REFORMS; AND

(D) A NARRATIVE OF THE COUNCIL'S PROGRESS ON ESTABLISHING DATA COLLECTION AND UNIFORMITY STANDARDS AND ANY CHANGES THAT HAVE BEEN IMPLEMENTED AS A RESULT OF THE COUNCIL'S WORK.

~~(5)~~(7) THE COUNCIL MAY APPOINT A WORKING GROUP TO TRACK IMPLEMENTATION, EVALUATE COMPLIANCE WITH ANY LEGISLATION RESULTING FROM CRIMINAL JUSTICE REFORMS, AND PERFORM OTHER DETAILED ANALYSIS AS

DIRECTED BY THE COUNCIL. IF APPOINTED, THE WORKING GROUP SHALL MEET REGULARLY AND REPORT TO THE COUNCIL AS THE COUNCIL REQUIRES. THE WORKING GROUP MAY INCLUDE REPRESENTATIVES OF CRIMINAL JUSTICE AGENCIES AND KEY CONSTITUENCIES THAT ARE NOT MEMBERS OF THE COUNCIL.

~~(6)~~(8) THE COUNCIL MAY REQUEST LEGISLATION TO ENACT CHANGES TO THE STATE'S CRIMINAL JUSTICE SYSTEM THAT THE COUNCIL FINDS NECESSARY.

~~(7)~~(9) THE JUDICIAL BRANCH, THE DEPARTMENT OF CORRECTIONS, THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES, THE BOARD OF PARDONS AND PAROLE, AND THE LEGISLATIVE SERVICES AND FISCAL DIVISIONS SHALL PROVIDE DATA AND INFORMATION AS REQUESTED BY THE COUNCIL.

~~(8)~~(10) APPOINTMENTS MADE UNDER SUBSECTION (1) MUST BE MADE WITHIN 60 DAYS AFTER [THE EFFECTIVE DATE OF THIS SECTION]. A VACANCY ON THE COUNCIL MUST BE FILLED IN THE MANNER OF THE ORIGINAL APPOINTMENT.

~~(9)~~(11) COUNCIL MEMBERS MUST BE REIMBURSED FOR TRAVEL EXPENSES AS PROVIDED IN 2-18-501 THROUGH 2-18-503. MEMBERS OF THE COUNCIL WHO ARE FULL-TIME SALARIED OFFICERS OR EMPLOYEES OF THIS STATE OR ANY POLITICAL SUBDIVISION ARE ENTITLED TO THEIR REGULAR COMPENSATION. LEGISLATIVE MEMBERS MUST BE COMPENSATED AS PROVIDED IN 5-2-302.

~~(10)~~(12) THE COUNCIL SHALL REPORT TO THE LAW AND JUSTICE INTERIM COMMITTEE AND THE LEGISLATIVE FINANCE COMMITTEE AS REQUESTED.

NEW SECTION. **SECTION 4. DEPARTMENT OF CORRECTIONS TO REPORT ON CRIMINAL JUSTICE REINVESTMENT LEGISLATION IMPACTS.** IN ADDITION TO ANY DATA OR REPORTS REQUIRED BY THE MONTANA CRIMINAL JUSTICE OVERSIGHT COUNCIL PURSUANT TO [SECTION 3], THE DEPARTMENT OF CORRECTIONS SHALL:

(1) SUBMIT AN ANNUAL REPORT TO THE MONTANA CRIMINAL JUSTICE OVERSIGHT COUNCIL BY AUGUST 15 OF EACH YEAR. THE REPORT MUST:

(A) INCLUDE THE IMPACT OF ANY LEGISLATION RELATED TO RECOMMENDATIONS FROM THE COMMISSION ON SENTENCING ESTABLISHED IN CHAPTER 343, LAWS OF 2015~~, AND~~;

(B) THE EXTENT TO WHICH THE DEPARTMENT HAS ESTABLISHED AND MET IMPLEMENTATION GOALS AND PROJECTIONS CONCERNING THE PRISON POPULATION, RECIDIVISM RATE, AND OTHER KEY PUBLIC SAFETY METRICS; AND

(C) THE RESULTS OF INITIAL AND ONGOING PROGRAM EVALUATIONS THAT THE DEPARTMENT IS REQUIRED BY

[SECTION 6] TO CONDUCT, INCLUDING ANY IDENTIFIED PROGRAM DEFICIENCIES AND THE DEPARTMENT'S PLAN TO CORRECT THOSE DEFICIENCIES.

(2) REPORT TO THE LEGISLATURE BY JANUARY 1 OF EACH YEAR ON THE AMOUNT OF SAVINGS GENERATED AND ON THE PRISON POPULATION IMPACT UNDER ANY LEGISLATION RESULTING FROM THE RECOMMENDATIONS OF THE COMMISSION ON SENTENCING ESTABLISHED IN CHAPTER 343, LAWS OF 2015, FOR THE PURPOSE OF TRACKING THE PROGRESS TOWARD MEETING THE IMPACT ESTIMATES AND GOALS OF THE LEGISLATION.

NEW SECTION. **SECTION 5. SUPERVISION RESPONSES GRID -- REPORT.** (1) THE DEPARTMENT SHALL REVISE, MAINTAIN, AND FULLY IMPLEMENT THE POLICY KNOWN AS THE MONTANA INCENTIVES AND INTERVENTIONS GRID. THE GRID MUST GUIDE RESPONSES TO NEGATIVE AND POSITIVE BEHAVIOR BY PEOPLE UNDER SUPERVISION BY THE DEPARTMENT, INCLUDING RESPONSES TO VIOLATIONS OF SUPERVISION CONDITIONS IN A SWIFT, CERTAIN, AND PROPORTIONAL MANNER. THE GRID MUST INCLUDE GUIDANCE AND PROCEDURES TO DETERMINE WHEN AND HOW TO:

(A) REQUEST A WARRANT OR ARREST WITHOUT A WARRANT;

(B) USE A 72-HOUR DETENTION;

(C) INITIATE AN INTERVENTION HEARING;

(D) SEEK DEPARTMENTAL APPROVAL TO USE UP TO 90-DAY INTERVENTIONS; AND

(E) EXHAUST AND DOCUMENT APPROPRIATE GRADUATED VIOLATION RESPONSES BEFORE INITIATING THE REVOCATION PROCESS.

(2) THE GRID MUST RECOMMEND THE LEAST RESTRICTIVE PLACEMENT FOR OFFENDERS BASED ON THE RESULT OF A VALIDATED RISK AND NEEDS ASSESSMENT. PLACEMENT DECISIONS MUST BE DOCUMENTED IN THE OFFENDER'S FILE AND MUST INDICATE ANY OTHER LESS SECURE SANCTION OPTIONS CONSIDERED BY THE PROBATION AND PAROLE OFFICER BEFORE UTILIZING A HIGHER LEVEL OF CUSTODY.

~~(2)~~(3) THE DEPARTMENT SHALL:

(A) PROVIDE INFORMATION AND TRAINING ON THE GRID FOR PROBATION AND PAROLE OFFICERS AND SUPERVISORS AND FOR MEMBERS AND STAFF OF THE BOARD OF PARDONS AND PAROLE; ~~AND~~

(B) OFFER INFORMATION AND TRAINING ON THE GRID TO DISTRICT COURT JUDGES, PROSECUTION AND DEFENSE ATTORNEYS, LAW ENFORCEMENT PERSONNEL, ~~AND~~ COUNTY DETENTION CENTER PERSONNEL, CONTRACTED SERVICE PROVIDERS, AND OTHER INTERESTED PERSONNEL.

~~(3) THE DEPARTMENT SHALL~~ (C) REVIEW THE GRID EVERY 5 YEARS TO ENSURE THAT IT ADHERES TO

EVIDENCE-BASED PRACTICES AND THAT THE USE OF SANCTIONS AND INCENTIVES BY PROBATION AND PAROLE OFFICERS IS CONSISTENT ACROSS THE STATE;

(D) ENSURE THAT THE GUIDANCE AND PROCEDURES ESTABLISHED IN THE GRID CONSIDER COMMUNITY SAFETY AND THE NEEDS OF THE VICTIM AND OFFENDER;

(E) COLLECT DATA RELATING TO PLACEMENT DECISIONS BASED ON THE GRID; AND

(F) AGGREGATE COLLECTED DATA AND PROVIDE A REPORT TO THE LAW AND JUSTICE INTERIM COMMITTEE EACH BIENNIUM.

NEW SECTION. **SECTION 6. QUALITY ASSURANCE UNIT -- PROGRAM STANDARDS -- EVALUATION -- COOPERATION WITH DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES -- REPORT.** (1) THERE IS A QUALITY ASSURANCE UNIT IN THE DEPARTMENT OF CORRECTIONS.

(2) IN ADDITION TO DUTIES ASSIGNED TO IT BY THE DEPARTMENT DIRECTOR OR OTHERWISE REQUIRED BY LAW, THE UNIT SHALL:

(A) ADOPT A AN EVIDENCE-BASED PROGRAM EVALUATION TOOL THAT ~~ENSURES ADHERENCE TO EVIDENCE-BASED PRACTICES~~ MEASURES HOW CLOSELY CORRECTIONAL PROGRAMS MEET THE KNOWN PRINCIPLES OF EFFECTIVE INTERVENTION. THE TOOL MUST MEASURE PROGRAM CONTENT AND CAPACITY TO ENSURE THE DELIVERY OF EFFECTIVE INTERVENTIONS FOR OFFENDERS.

(B) CONDUCT EVALUATIONS OF PROGRAMS TO REDUCE RECIDIVISM THAT ARE FUNDED BY THE STATE; AND

(C) ENFORCE STANDARDS TO ENSURE THAT PROGRAMS ARE USING BEST PRACTICES FOR REDUCING RECIDIVISM, INCLUDING TARGETING HIGHEST-RISK INDIVIDUALS, ADHERING TO EVIDENCE-BASED OR RESEARCH-DRIVEN PRACTICES, AND INTEGRATING OPPORTUNITIES FOR ONGOING QUALITY ASSURANCE AND EVALUATION.

(3) SUBJECT TO THE AVAILABILITY OF FUNDING, THE DEPARTMENT MAY CONTRACT WITH AN INDEPENDENT CONTRACTOR OR ACADEMIC INSTITUTION TO COMPLETE EVALUATIONS.

(4) THE UNIT SHALL WORK JOINTLY WITH THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES TO DEVELOP STANDARDS FOR ~~THE~~ QUALITY ASSURANCE IN BEHAVIORAL HEALTH PROGRAMS OR OTHER CLINICAL PROGRAMS.

(5) THE UNIT SHALL CONDUCT REGULAR EVALUATIONS OF PROGRAMS OPERATED BY THE DEPARTMENT OR UNDER A CONTRACT WITH THE DEPARTMENT.

(6) THE DEPARTMENT SHALL:

(A) DEVELOP AND MAINTAIN A LIST OF EVIDENCE-BASED TREATMENT CURRICULUMS TO BE UTILIZED IN PROGRAMS OPERATED BY OR UNDER CONTRACT WITH THE DEPARTMENT WITH PRIORITY BEING PLACED ON ADOPTING TREATMENT CURRICULUMS THAT ARE IN THE PUBLIC DOMAIN AND EVIDENCE-BASED; AND

(B) REPORT THE RESULTS OF ALL INITIAL AND ONGOING PROGRAM EVALUATIONS TO THE LAW AND JUSTICE INTERIM COMMITTEE EACH INTERIM, INCLUDING ANY IDENTIFIED PROGRAM DEFICIENCIES AND THE DEPARTMENT'S PLAN TO CORRECT THOSE DEFICIENCIES.

~~(6)~~(7) AFTER [THE EFFECTIVE DATE OF THIS SECTION], THE DEPARTMENT SHALL ENSURE THAT CONTRACTS SIGNED OR RENEWED WITH PROVIDERS ~~INCLUDE MINIMUM PROGRAM STANDARDS, ELIGIBILITY CRITERIA FOR PROGRAM ENTRY, AND PROGRAM DOSAGE REQUIREMENTS THAT CONFORM WITH THE LATEST RESEARCH AVAILABLE ON BEST PRACTICES~~ CONTAIN:

(A) MINIMUM PROGRAM STANDARDS THAT ADHERE TO THE EVIDENCE-BASED PROGRAM EVALUATION TOOL ADOPTED AS REQUIRED IN SUBSECTION (2);

(B) OFFENDER ELIGIBILITY CRITERIA FOR PROGRAM ENTRY WITH THE CONTRACTOR; AND

(C) PROGRAM DOSAGE REQUIREMENTS THAT CONFORM TO EVIDENCE-BASED PRACTICES.

SECTION 7. SECTION 3-1-702, MCA, IS AMENDED TO READ:

"**3-1-702. Duties.** The court administrator is the administrative officer of the court. Under the direction of the supreme court, the court administrator shall:

(1) prepare and present judicial budget requests to the legislature, including the costs of the state-funded district court program;

(2) collect, compile, and report statistical and other data relating to the business transacted by the courts and provide the information to the legislature on request;

(3) report annually to the law and justice interim committee and at the beginning of each regular legislative session report to the house appropriations subcommittee that considers general government on the status of development and procurement of information technology within the judicial branch, including any changes in the judicial branch information technology strategic plan and any problems encountered in deploying appropriate information technology within the judicial branch. The court administrator shall, to the extent possible, provide that current and future applications are coordinated and compatible with the standards and goals of the executive branch as expressed in the state strategic information technology plan

provided for in 2-17-521.

(4) recommend to the supreme court improvements in the judiciary;

(5) administer legal assistance for indigent victims of domestic violence, as provided in 3-2-714;

(6) administer state funding for district courts, as provided in chapter 5, part 9;

(7) administer and report on the child abuse court diversion pilot project provided in 41-3-305;

(8) ADMINISTER THE PRETRIAL PROGRAM PROVIDED FOR IN [SECTION 1];

~~(8)~~(9) administer the judicial branch personnel plan; and

~~(9)~~(10) perform other duties that the supreme court may assign. (Subsection (7) terminates June 30, 2017--sec. 7, Ch. 376, L. 2015.)"

{Internal References to 3-1-702: None.}

Section 8. Section 46-9-109 , MCA, is amended to read:

"46-9-109. Release or detention hearing. (1) The release or detention of the defendant must be determined immediately upon the defendant's initial appearance.

(2) In determining whether the defendant should be released or detained, the court may SHALL use a validated pretrial risk assessment tool and shall take into account the available information concerning:

(a) the nature and circumstances of the offense charged, including whether the offense involved the use of force or violence;

~~(b) the weight of the evidence against the defendant;~~

~~(c)~~(B) the history and characteristics of the defendant, including:

(i) the defendant's character, physical and mental condition, family ties, employment, financial resources, length of residence in the community, community ties, past conduct, history relating to alcohol or drug abuse, criminal history, and record concerning the appearance at court proceedings; and

(ii) whether at the time of the current arrest or offense, the defendant was on probation, on parole, or on other release pending trial, sentencing, appeal, or completion of sentencing for an offense;

~~(d)~~(C) the nature and seriousness of the danger to any person or the community that would be posed by the defendant's release; and

~~(e)~~(D) the property available as collateral for the defendant's release to determine if it will reasonably ensure the appearance of the defendant as required.

(3) Upon the motion of any party or the court, a hearing may be held to determine whether bail is established in the appropriate amount or whether any other condition or restriction upon the defendant's release will reasonably ensure the appearance of the defendant and the safety of any person or the community. THE COURT SHALL ORDER THE LEAST RESTRICTIVE CONDITIONS WHEN DETERMINING CONDITIONS AND RELEASE OPTIONS."

NEW SECTION. **Section 9. Repealer.** The following section of the Montana Code Annotated is repealed:

46-9-203. Report to county attorney concerning drug users.

~~NEW SECTION. **Section 5. Codification instruction.** [Sections 1 and 2] are intended to be codified as an integral part of Title 44, chapter 4, part 3, and the provisions of Title 44, chapter 4, part 3, apply to [sections 1 and 2].~~

NEW SECTION. **SECTION 10. APPROPRIATION.** THERE IS APPROPRIATED $28,000 FROM THE GENERAL FUND TO THE DEPARTMENT OF CORRECTIONS FOR THE BIENNIUM BEGINNING JULY 1, 2017, FOR THE PURPOSES OF FUNDING THE COUNCIL AS PROVIDED IN [SECTION 3].

NEW SECTION. **SECTION 11. NOTIFICATION TO TRIBAL GOVERNMENTS.** THE SECRETARY OF STATE SHALL SEND A COPY OF [THIS ACT] TO EACH TRIBAL GOVERNMENT LOCATED ON THE SEVEN MONTANA RESERVATIONS AND TO THE LITTLE SHELL CHIPPEWA TRIBE.

NEW SECTION. **SECTION 12. CODIFICATION INSTRUCTION.** (1) ~~[SECTIONS 1 AND 2] ARE~~ [SECTION 1] IS INTENDED TO BE CODIFIED AS AN INTEGRAL PART OF ~~TITLE 44, CHAPTER 4, PART 3,~~ TITLE 3, CHAPTER 1, PART 7, AND THE PROVISIONS OF ~~TITLE 44, CHAPTER 4, PART 3,~~ TITLE 3, CHAPTER 1, PART 7, APPLY TO ~~[SECTIONS 1 AND 2]~~ [SECTION 1].

(2) [SECTION 2] IS INTENDED TO BE CODIFIED AS AN INTEGRAL PART OF TITLE 44, CHAPTER 4, PART 3, AND THE PROVISIONS OF TITLE 44, CHAPTER 4, PART 3, APPLY TO [SECTION 2].

~~(2)~~(3) [SECTION 5] IS INTENDED TO BE CODIFIED AS AN INTEGRAL PART OF TITLE 46, CHAPTER 23, PART 10,

AND THE PROVISIONS OF TITLE 46, CHAPTER 23, PART 10, APPLY TO [SECTION 5].

~~(3)~~(4) [SECTION 6] IS INTENDED TO BE CODIFIED AS AN INTEGRAL PART OF TITLE 53, CHAPTER 1, PART 2, AND THE PROVISIONS OF TITLE 53, CHAPTER 1, PART 2, APPLY TO [SECTION 6].

COORDINATION SECTION. **SECTION 13. COORDINATION INSTRUCTION.** IF BOTH SENATE BILL NO. 63 AND [THIS ACT] ARE PASSED AND APPROVED AND IF SENATE BILL NO. 63 CONTAINS A SECTION AMENDING 53-1-203, THEN THE SECTION AMENDING 53-1-203 IS VOID AND ANY REFERENCES IN SENATE BILL NO. 63 TO THE "INCENTIVES AND INTERVENTIONS GRID ADOPTED UNDER 53-1-203" MUST BE CHANGED TO THE "INCENTIVES AND INTERVENTIONS GRID ADOPTED UNDER [SECTION 5 OF SENATE BILL NO. 59].

NEW SECTION. **SECTION 14. CONTINGENT VOIDNESS.** (1) PURSUANT TO JOINT RULE 40-65, IF [THIS ACT] DOES NOT INCLUDE AN APPROPRIATION FOR THE PURPOSES OF FUNDING [SECTION 3] PRIOR TO BEING TRANSMITTED TO THE GOVERNOR, THEN [SECTION 3 AND SECTION 4(1)] ARE VOID.

(2) IF THE APPROPRIATION IN [SECTION ~~9~~ 10] IS VETOED, THEN [SECTION 3 AND SECTION 4(1)] ARE VOID.

(3) IF HOUSE BILL NO. 2 IS PASSED AND APPROVED AND IF IT DOES NOT INCLUDE FUNDING FOR THE PRETRIAL PROGRAM ESTABLISHED IN [SECTION 1], THEN 02013[SECTIONS 1, 7, AND 8] ARE VOID.

NEW SECTION. **SECTION 15. EFFECTIVE DATES.** (1) EXCEPT AS PROVIDED IN SUBSECTIONS (2) AND (3), [THIS ACT] IS EFFECTIVE ON PASSAGE AND APPROVAL.

(2) [SECTIONS 1, 2, 7, ~~AND~~ 8, AND 9] ARE EFFECTIVE OCTOBER 1, 2017.

(3) [SECTION ~~9~~ 10] IS EFFECTIVE JULY 1, 2017.

NEW SECTION. **SECTION 16. TERMINATION.** [SECTIONS 3 AND 4] TERMINATE JUNE 30, 2019.

- END -

Montana State Legislature

65th Montana Legislature - 2017

ADDITIONAL DOCUMENTS

Business Report

Signed by Chairman

Roll Call

Attendance

Standing Committee Reports

Tabled Bills

Fiscal Reports

Roll Call Votes

Proxy Forms

Visitor Registration

Additional Documents

Witness Statements that are not presented as exhibits. All informational items handed in after meeting. Petitions; etcetera.

- **Any documents which were submitted after the committee hearing has ended and/or was submitted late within 24 hours regarding information in the committee hearing.**

YOU MAY VIEW THE ORIGINAL DOCUMENTS

AT THE MONTANA HISTORICAL SOCIETY

MONTANA HISTORICAL SOCIETY ARCHIVES
225 N. ROBERTS
HELENA, MT 59620-1201
2017 LEGISLATIVE SESSION
E-DOCUMENT SPECIALIST: SUSIE HAMILTON

BUSINESS REPORT

MONTANA SENATE
65th LEGISLATURE - REGULAR SESSION

SENATE FREE CONFERENCE COMMITTEE

Date: Tuesday, March 28, 2017 **Time:** 11:30 A.M.
Place: Capitol **Room:** 350

BILLS and RESOLUTIONS HEARD:

EXECUTIVE ACTION TAKEN:

None

Comments:

Discussion Only:
SB 59 - Generally revise criminal justice laws - Sen. Cynthia Wolken

Scheduled Executive Action on SB 59 for March 30, 2017

SEN. Keith Regier, Chair

MONTANA STATE SENATE

ROLL CALL

FREE CONFERENCE COMMITTEE

Date: 3/28/2017 HB/SB No. 59

NAME	PRESENT	ABSENT/ EXCUSED
Sen. Regier	✓	
Sen. Vincent	✓	
Sen. Wolken	✓	
Rep. Lynch	✓	
Rep. Brodehl	✓	
Rep. Patelis	✓	

Staff: Rachel Weiss

Secretary: Nadine Spencer

MONTANA STATE SENATE
Visitors Register
SENATE FREE CONFERENCE COMMITTEE

Tuesday, March 28, 2017
SB 59 - Generally revise criminal justice laws
Sponsor: **Sen. Cynthia Wolken**

PLEASE PRINT

Name	Representing	Support	Oppose	Info
Colleen Oppel	Council of State Court's	X		
Beth McLaughlin	Sup Ct	X		

Please leave prepared testimony with Secretary. Witness Statement forms are available if you care to submit written testimony.

MINUTES

MONTANA SENATE
65th LEGISLATURE - REGULAR SESSION

FREE CONFERENCE COMMITTEE ON SENATE BILL 59

Call to Order: Chair Keith Regier, on April 5, 2017 at 11:38 A.M., in Room 350 Capitol

ROLL CALL

Members Present:

Sen. Keith Regier, Chair (R)
Rep. Randy Brodehl, Chair (R)
Rep. Ryan Lynch (D)
Rep. Jimmy Patelis (R)
Sen. Chas Vincent (R)
Sen. Cynthia Wolken (D)

Members Excused: None

Members Absent: None

Staff Present: Rachel Weiss, Legislative Branch
Nadine Spencer, Committee Secretary

Audio Committees: These minutes are in outline form only. They provide a list of participants and a record of official action taken by the committee. The link to the audio recording of the meeting is available on the Legislative Branch website.

Committee Business Summary:

SB 59 - Do Pass As Amended

Recommend that the Free Conference Committee Report Be Adopted

EXECUTIVE ACTION ON SB 59

Discussion:

00:00:21 Chair Regier
00:00:32 Rachel Weiss, Legislative Services Division (LSD)
EXHIBIT(frs71sb0059a01)

00:04:20 Rep. Lynch
00:04:32 Sen. Vincent
00:04:56 Ms. Weiss, LSD
00:05:14 Chair Regier
00:05:21 Ms. Weiss
00:05:43 Sen. Wolken
00:06:21 Chair Regier
00:06:28 Sen. Wolken
00:06:51 Chair Regier
00:07:03 Rep. Brodehl
00:07:25 Chair Regier
00:07:30 Rep. Brodehl
00:07:37 Chair Regier
00:07:43 Rep. Brodehl
00:08:07 Ms. Weiss
00:09:39 Chair Regier
00:09:47 Ms. Weiss
00:10:55 Chair Regier

00:11:14 **Motion/Vote**: Sen. Vincent moved that **SB 59 BE AMENDED**. Motion carried unanimously by voice vote in both the House and the Senate.
EXHIBIT(frs71sb0059a02)

00:11:44 **Motion/Vote:** Sen. Wolken moved that **SB 59 DO PASS AS AMENDED**. The motion carried unanimously by voice vote in both the House and the Senate.

Note: In lieu of motion, the signed Committee Report indicates that all committee members present and voting recommend that THE FREE CONFERENCE COMMITTEE REPORT BE ADOPTED.

ADJOURNMENT

Adjournment: 11:50 AM

Nadine Spencer, Secretary

ns

Additional Documents:

EXHIBIT(frs71sb0059aad.pdf)

SENATE Free Conference
Exhibit No. 1
Date 4-5-2017
Bill No. SB 59

SENATE BILL NO. 59 grey bill with amendment SB005903.arw REVISED 4-4

INTRODUCED BY C. WOLKEN

BY REQUEST OF THE COMMISSION ON SENTENCING

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING CRIMINAL JUSTICE LAWS; REQUIRING THE ~~BOARD OF CRIME CONTROL~~ OFFICE OF COURT ADMINISTRATOR TO CREATE A PRETRIAL ~~GRANT~~ PROGRAM; REQUIRING THE BOARD OF CRIME CONTROL TO CREATE A PROSECUTION DIVERSION GRANT PROGRAM; GRANTING THE BOARD RULEMAKING AUTHORITY TO ADMINISTER THE ~~PROGRAMS~~ PROSECUTION DIVERSION PROGRAM; ~~ALLOWING~~ A COURT TO USE INFORMATION FROM A PRETRIAL RISK ASSESSMENT TOOL WHEN DETERMINING WHETHER A DEFENDANT SHOULD BE RELEASED OR DETAINED; CREATING AN OVERSIGHT COUNCIL TO MONITOR AND REPORT ON THE EFFECTS OF CRIMINAL JUSTICE LEGISLATION; REQUIRING THE QUALITY ASSURANCE UNIT OF THE DEPARTMENT OF CORRECTIONS TO ADOPT AN EVALUATION TOOL AND CONDUCT PROGRAM EVALUATIONS; REQUIRING THE DEPARTMENT TO ADOPT AND MAINTAIN AN INCENTIVES AND INTERVENTIONS GRID TO GUIDE COMMUNITY SUPERVISION OF OFFENDERS; REQUIRING COLLECTION OF CERTAIN DATA AND THE PROVISION OF CERTAIN REPORTS; ELIMINATING THE REQUIREMENT THAT A JUDGE OR JUSTICE OF THE PEACE REPORT DRUG USERS TO THE COUNTY ATTORNEY; PROVIDING AN APPROPRIATION; AMENDING ~~SECTION~~ SECTIONS 7-1-702 AND 46-9-109, MCA; ~~AND~~ REPEALING SECTION 46-9-203, MCA; PROVIDING FOR CONTINGENT VOIDNESS; AND PROVIDING EFFECTIVE DATES AND A TERMINATION DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Pretrial program -- rulemaking.** (1) Within the limits of available funds, the ~~board of crime control~~ OFFICE OF COURT ADMINISTRATOR shall develop and administer a pretrial ~~grant program to encourage local adoption of~~ PROGRAM FOR FELONY DEFENDANTS THAT INCLUDES USE OF:

(a) a validated pretrial risk assessment tool; and

(b) a dangerousness or lethality assessment for individuals charged with an offense of partner or family member assault.

(2) THE OFFICE OF COURT ADMINISTRATOR MAY USE PROGRAM FUNDS TO:

(A) DEVELOP, IMPLEMENT, AND ADMINISTER THE PRETRIAL PROGRAM; AND

(B) MAKE ALLOCATIONS TO COUNTIES OR NONPROFIT ORGANIZATIONS CONTRACTING WITH A COUNTY TO PROVIDE PRETRIAL SERVICES.

~~(2)~~(3) ~~Grant~~ ALLOCATED funds may be used for pretrial services staff, to obtain assessment instruments, and to provide supervision of pretrial FELONY defendants. ~~A county or a nonprofit organization contracting with a county to provide the pretrial services may be eligible for a grant.~~

~~(3)~~(4) In administering the pretrial program, the ~~board~~ OFFICE shall:

(a) identify priorities for funding services~~, activities, and criteria for the receipt of program funds~~ AND ACTIVITIES AND THE CRITERIA FOR THE ALLOCATION OF PROGRAM FUNDS, INCLUDING THAT THE COURTS ACCEPTING FUNDS MUST USE A VALIDATED RISK ASSESSMENT TOOL TO ASSIGN RELEASE CONDITIONS AND DETERMINE PLACEMENT OPTIONS;

(b) monitor the expenditure of funds by COUNTIES AND organizations receiving funds under this section;

(c) evaluate the effectiveness of services and activities under this section; ~~and~~

(D) ESTABLISH AN ADVISORY COUNCIL THAT INCLUDES LOCAL AND DISTRICT COURT JUDGES AND OTHER STAKEHOLDERS TO PROVIDE GUIDANCE TO THE OFFICE; AND

~~(d)~~(E) ~~adopt rules~~ DEVELOP POLICIES AND PROCEDURES necessary to implement this section, SUBJECT TO APPROVAL OF THE SUPREME COURT.

~~(4)~~(5) (a) ~~Grants~~ FUNDS available under subsection (1) consist of state appropriations and federal funds received by the ~~board~~ OFFICE for the purposes of administering the pretrial program or any funds received pursuant to subsection ~~(4)(b)~~(5)(B).

(b) The ~~board~~ OFFICE may accept gifts, grants, and donations from other public or private sources, which must be used within the scope of this section.

NEW SECTION. **Section 2. Prosecution diversion program -- rulemaking.** (1) Within the limits of available funds, the board of crime control shall develop and administer a prosecution diversion grant program to encourage local adoption of prosecution diversion programs under 46-16-130.

(2) Grant funds may be used for staff, to provide supervision, or to contract for program services for defendants in the program. A county attorney or a nonprofit organization contracting with a county attorney may be eligible for a grant.

(3) In administering the prosecution diversion program, the board shall:

(a) identify priorities for funding services, activities, and criteria for the receipt of program funds;

(b) monitor the expenditure of funds by organizations receiving funds under this section;

(c) evaluate the effectiveness of services and activities under this section; and

(d) adopt rules necessary to implement this section.

(4) (a) Grants available under subsection (1) consist of state appropriations and federal funds received by the board for the purposes of administering the prosecution diversion program or any funds received pursuant to subsection (4)(b).

(b) The board may accept gifts, grants, and donations from other public or private sources, which must be used within the scope of this section.

NEW SECTION. **Section 3. Montana criminal justice oversight council -- duties -- membership.** (1) There is a Montana criminal justice oversight council. The council consists of ~~12~~ 15 members as follows:

~~(A) one member of the house of representatives selected by the speaker of the house and one member of the senate selected by the president of the senate. The legislative members must be selected in consultation with the minority leaders and may not be of the same political party.~~

(A) (I) two members of the house of representatives, one selected by the speaker of the house and one by the house minority leader; and

(II) two members of the senate, one selected by the president of the senate and one selected by the senate minority leader;

(B) one member selected by the chief justice of the Montana supreme court;

(C) the director of the department of corrections or the director's designee;

(D) an employee of the department of corrections selected by the director who has expertise in data collection and reporting;

(E) one member selected by the director of the department of public health and human services who has expertise in behavioral health treatment services;

(F) the executive director of the board of crime control or the director's designee;

(G) a county sheriff appointed by the attorney general; and

(H) the following individuals appointed by the governor:

(I) A MEMBER OF A STATE-RECOGNIZED OR FEDERALLY RECOGNIZED INDIAN TRIBE LOCATED WITHIN THE BOUNDARIES OF THE STATE OF MONTANA WHO HAS EXPERTISE IN CRIMINAL JUSTICE;

(II) ONE MEMBER OF THE BOARD OF PARDONS AND PAROLE;

(III) ONE REPRESENTATIVE OF CRIME VICTIMS; AND

~~(IV) ONE REPRESENTATIVE OF A COMMUNITY CORRECTIONS FACILITY, TREATMENT FACILITY, OR PRERELEASE CENTER.~~

(IV)) TWO REPRESENTATIVES OF COMMUNITY CORRECTIONS PROVIDERS, ONE OF WHOM MUST REPRESENT A TREATMENT FACILITY AND ONE OF WHOM MUST REPRESENT A PRERELEASE CENTER.

(2) THE DIRECTOR OF THE DEPARTMENT OF CORRECTIONS OR THE DIRECTOR'S DESIGNEE SHALL SERVE AS PRESIDING OFFICER.

(3) THE COUNCIL SHALL:

(A) REVIEW THE RECOMMENDATIONS OF THE COMMISSION ON SENTENCING ESTABLISHED IN CHAPTER 343, LAWS OF 2015~~, AND OVERSEE IMPLEMENTATION OF AND COMPLIANCE WITH ANY LEGISLATION RESULTING FROM THOSE RECOMMENDATIONS~~;

(B) RECEIVE AND ANALYZE DATA COLLECTED BY AGENCIES AND ENTITIES CHARGED WITH IMPLEMENTING THE RECOMMENDATIONS OF THE COMMISSION ON SENTENCING AND THAT ARE COLLECTING DATA DURING THE IMPLEMENTATION AND MANAGEMENT OF SPECIFIC RECOMMENDATIONS, INCLUDING DATA RELATED TO THE PROGRAMS ESTABLISHED IN [SECTIONS 1 AND 2];

(C) ASSESS OUTCOMES FROM THE RECOMMENDATIONS THE COMMISSION ON SENTENCING HAS MADE AND CORRESPONDING CRIMINAL JUSTICE REFORMS;

(D) REQUEST, RECEIVE, AND REVIEW DATA AND REPORT ON PERFORMANCE OUTCOME DATA RELATING TO CRIMINAL JUSTICE REFORM; AND

(E) RECEIVE REPORTS REQUIRED BY [SECTION 4] TO BE PRODUCED BY THE DEPARTMENT OF CORRECTIONS.

(4) DATA EVALUATION PERFORMED BY THE COUNCIL MUST:

(A) ASSESS THE CURRENT ELECTRONIC RECORDS UTILIZED BY CRIMINAL JUSTICE AGENCIES;

(B) REVIEW AND LIST ALL VARIABLES COLLECTED IN EACH AGENCY'S INFORMATION MANAGEMENT SYSTEM;

(C) ESTABLISH A BASELINE FOR HISTORICAL DATA COMPARISONS;

(D) DETERMINE WHETHER DATA IS LINKED TO SPECIFIC OFFENDERS THROUGH A UNIQUE IDENTIFYING FACTOR;

(E) REVIEW ARCHIVAL DATA AND AGENCIES' DATA RETENTION POLICIES;

(F) DETERMINE WHETHER PRESENTENCE INVESTIGATION REPORTS ARE COMPLETED ELECTRONICALLY IN THE DEPARTMENT OF CORRECTIONS' CASE MANAGEMENT SYSTEM WITHIN ESTABLISHED STATUTORY TIMELINES;

(G) REVIEW ANY ESTABLISHED DATA PROTOCOLS FOR PRETRIAL SERVICES;

(H) ASSESS IF THE DATA COLLECTED OR RECOMMENDED TO BE COLLECTED ON OFFENDERS AND PROGRAMS WILL PROVIDE CRIMINAL JUSTICE AGENCIES, THE LEGISLATURE, AND THE PUBLIC ADEQUATE INFORMATION TO DETERMINE WHETHER CORRECTIONAL PROGRAMS PRODUCE STANDARDIZED OUTCOMES ACROSS THE STATE AND ARE AN EFFICIENT USE OF STATE RESOURCES; AND

(I) REVIEW AND SUGGEST IMPROVEMENTS FOR BEHAVIORAL HEALTH SCREENING INSTRUMENTS AND OTHER SCREENING INSTRUMENTS AS NEEDED TO ENSURE THE INTEGRITY OF DATA THAT IS CAPTURED IN CRIMINAL JUSTICE AGENCIES' INFORMATION MANAGEMENT SYSTEMS.

(5) THE COUNCIL SHALL EXAMINE THE FEASIBILITY OF CREATING AND MAINTAINING A PUBLIC PORTAL THROUGH WHICH CRIMINAL JUSTICE DATA CAN BE ACCESSED, INCLUDING DATA ON COURT CASE FILINGS, CORRECTIONAL POPULATIONS, AND HISTORICAL AND LEGACY DATA SETS.

~~(4)~~(6) THE COUNCIL SHALL SUBMIT BY SEPTEMBER 1 OF EACH EVEN-NUMBERED YEAR A BIENNIAL REPORT TO THE GOVERNOR AND LEGISLATURE, AS PROVIDED IN 5-11-210. THE REPORT MUST INCLUDE:

(A) A DESCRIPTION OF THE COUNCIL'S PROCEEDINGS SINCE THE PREVIOUS REPORT;

(B) A SUMMARY OF SAVINGS FROM CRIMINAL JUSTICE REFORMS AND RECOMMENDATIONS FOR HOW THE SAVINGS SHOULD BE REINVESTED TO REDUCE RECIDIVISM; ~~AND~~

(C) A DESCRIPTION OF PERFORMANCE MEASURES AND OUTCOMES RELATED TO CRIMINAL JUSTICE REFORMS; AND

(D) A NARRATIVE OF THE COUNCIL'S PROGRESS ON ESTABLISHING DATA COLLECTION AND UNIFORMITY STANDARDS AND ANY CHANGES THAT HAVE BEEN IMPLEMENTED AS A RESULT OF THE COUNCIL'S WORK.

~~(5)~~(7) THE COUNCIL MAY APPOINT A WORKING GROUP TO TRACK ~~IMPLEMENTATION, EVALUATE COMPLIANCE WITH~~ ANY LEGISLATION RESULTING FROM CRIMINAL JUSTICE REFORMS, AND PERFORM OTHER DETAILED ANALYSIS AS DIRECTED BY THE COUNCIL. IF APPOINTED, THE WORKING GROUP SHALL MEET REGULARLY AND REPORT TO THE COUNCIL AS THE COUNCIL REQUIRES. THE WORKING GROUP MAY INCLUDE REPRESENTATIVES OF CRIMINAL JUSTICE AGENCIES AND KEY CONSTITUENCIES THAT ARE NOT MEMBERS OF THE COUNCIL.

~~(6)~~(8) THE COUNCIL MAY REQUEST LEGISLATION TO ENACT CHANGES TO THE STATE'S CRIMINAL JUSTICE SYSTEM THAT THE COUNCIL FINDS NECESSARY.

~~(7)~~(9) THE JUDICIAL BRANCH, THE DEPARTMENT OF CORRECTIONS, THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES, THE BOARD OF PARDONS AND PAROLE, AND THE LEGISLATIVE SERVICES AND FISCAL DIVISIONS SHALL PROVIDE DATA AND INFORMATION AS REQUESTED BY THE COUNCIL.

~~(8)~~(10) APPOINTMENTS MADE UNDER SUBSECTION (1) MUST BE MADE WITHIN 60 DAYS AFTER [THE EFFECTIVE DATE OF THIS SECTION]. A VACANCY ON THE COUNCIL MUST BE FILLED IN THE MANNER OF THE ORIGINAL APPOINTMENT.

~~(9)~~(11) COUNCIL MEMBERS MUST BE REIMBURSED FOR TRAVEL EXPENSES AS PROVIDED IN 2-18-501 THROUGH 2-18-503. MEMBERS OF THE COUNCIL WHO ARE FULL-TIME SALARIED OFFICERS OR EMPLOYEES OF THIS STATE OR ANY POLITICAL SUBDIVISION ARE ENTITLED TO THEIR REGULAR COMPENSATION. LEGISLATIVE MEMBERS MUST BE COMPENSATED AS PROVIDED IN 5-2-302.

~~(10)~~(12) THE COUNCIL SHALL REPORT TO THE LAW AND JUSTICE INTERIM COMMITTEE AND THE LEGISLATIVE FINANCE COMMITTEE AS REQUESTED.

NEW SECTION. **SECTION 4. DEPARTMENT OF CORRECTIONS TO REPORT ON CRIMINAL JUSTICE REINVESTMENT LEGISLATION IMPACTS.** IN ADDITION TO ANY DATA OR REPORTS REQUIRED BY THE MONTANA CRIMINAL JUSTICE OVERSIGHT COUNCIL PURSUANT TO [SECTION 3], THE DEPARTMENT OF CORRECTIONS SHALL:

(1) SUBMIT AN ANNUAL REPORT TO THE MONTANA CRIMINAL JUSTICE OVERSIGHT COUNCIL BY AUGUST 15 OF EACH YEAR. THE REPORT MUST:

(A) INCLUDE THE IMPACT OF ANY LEGISLATION RELATED TO RECOMMENDATIONS FROM THE COMMISSION ON SENTENCING ESTABLISHED IN CHAPTER 343, LAWS OF 2015~~, AND~~;

(B) THE EXTENT TO WHICH THE DEPARTMENT HAS ESTABLISHED AND MET IMPLEMENTATION GOALS AND PROJECTIONS CONCERNING THE PRISON POPULATION, RECIDIVISM RATE, AND OTHER KEY PUBLIC SAFETY METRICS; AND

(C) THE RESULTS OF INITIAL AND ONGOING PROGRAM EVALUATIONS THAT THE DEPARTMENT IS REQUIRED BY [SECTION 6] TO CONDUCT, INCLUDING ANY IDENTIFIED PROGRAM DEFICIENCIES AND THE DEPARTMENT'S PLAN TO CORRECT THOSE DEFICIENCIES.

(2) REPORT TO THE LEGISLATURE BY JANUARY 1 OF EACH YEAR ON THE AMOUNT OF SAVINGS GENERATED AND ON THE PRISON POPULATION IMPACT UNDER ANY LEGISLATION RESULTING FROM THE RECOMMENDATIONS OF THE COMMISSION ON SENTENCING ESTABLISHED IN CHAPTER 343, LAWS OF 2015, FOR THE PURPOSE OF TRACKING THE PROGRESS TOWARD MEETING THE IMPACT ESTIMATES AND GOALS OF THE LEGISLATION.

NEW SECTION. **Section 5. Supervision responses grid -- report.** (1) The department shall revise, maintain, and fully implement the policy known as the Montana incentives and interventions grid. The grid must guide responses to negative and positive behavior by people under supervision by the department, including responses to violations of supervision conditions in a swift, certain, and proportional manner. The grid must include guidance and procedures to determine when and how to:

(A) request a warrant or arrest without a warrant;

(B) use a 72-hour detention;

(C) initiate an intervention hearing;

(D) seek departmental approval to use up to 90-day interventions; and

(E) exhaust AND DOCUMENT appropriate graduated violation responses before initiating the revocation process.

(2) The grid must recommend the least restrictive placement for offenders based on the result of a validated risk and needs assessment. Placement decisions must be documented in the offender's file and must indicate any other less secure sanction options considered by the probation and parole officer before utilizing a higher level of custody.

~~(2)~~(3) The department shall:

(A) provide information and training on the grid for probation and parole officers and supervisors and for members and staff of the board of pardons and parole; ~~and~~

(B) offer information and training on the grid to district court judges, prosecution and defense attorneys, law enforcement personnel, ~~and~~ county detention center personnel, CONTRACTED SERVICE PROVIDERS, AND OTHER INTERESTED PERSONNEL.

~~(3) The department shall~~ (C) review the grid every 5 years to ensure THAT it adheres to evidence-based practices and that the use of sanctions and incentives by probation and parole officers is consistent across the state~~.~~;

(D) ensure that the guidance and procedures established in the grid consider community safety and the needs of the victim and offender;

(E) collect data relating to placement decisions based on the grid; and

(F) aggregate collected data and provide a report to the law and justice interim committee each biennium.

NEW SECTION. **Section 6. Quality assurance unit -- program standards -- evaluation -- cooperation with department of public health and human services -- report.** (1) There is a quality assurance unit in the department of corrections.

(2) In addition to duties assigned to it by the department director or otherwise required by law, the unit shall:

(a) adopt a AN EVIDENCE-BASED program evaluation tool that ~~ensures adherence to evidence-based practices~~ measures how closely correctional programs meet the known principles of effective intervention. The tool must measure program content and capacity to ensure the delivery of effective interventions for offenders.

(b) conduct evaluations of programs to reduce recidivism that are funded by the state; and

(c) enforce standards to ensure THAT programs are using best practices for reducing recidivism, including targeting highest-risk individuals, adhering to evidence-based or research-driven practices, and integrating opportunities for ongoing quality assurance and evaluation.

(3) Subject to the availability of funding, the department may contract with an independent contractor or academic institution to complete evaluations.

(4) The unit shall work jointly with the department of public health and human services to develop standards for ~~the~~ quality assurance in behavioral health PROGRAMS or other clinical programs.

(5) The unit shall conduct regular evaluations of programs operated by the department or under a contract with the department.

(6) The department shall:

(a) develop and maintain a list of evidence-based treatment curriculums to be utilized in programs operated by or under contract with the department with priority being placed on adopting treatment curriculums that are in the public domain and evidence-based; and

(b) report the results of all initial and ongoing program evaluations to the law and justice interim committee each interim, including any identified program deficiencies and the department's plan to correct those deficiencies.

~~(6)~~(7) After [the effective date of this section], the department shall ensure THAT contracts

SIGNED OR RENEWED WITH PROVIDERS ~~INCLUDE MINIMUM PROGRAM STANDARDS, ELIGIBILITY CRITERIA FOR PROGRAM ENTRY, AND PROGRAM DOSAGE REQUIREMENTS THAT CONFORM WITH THE LATEST RESEARCH AVAILABLE ON BEST PRACTICES~~ CONTAIN:

(A) MINIMUM PROGRAM STANDARDS THAT ADHERE TO THE EVIDENCE-BASED PROGRAM EVALUATION TOOL ADOPTED AS REQUIRED IN SUBSECTION (2);

(B) OFFENDER ELIGIBILITY CRITERIA FOR PROGRAM ENTRY WITH THE CONTRACTOR; AND

(C) PROGRAM DOSAGE REQUIREMENTS THAT CONFORM TO EVIDENCE-BASED PRACTICES.

SECTION 7. SECTION 3-1-702, MCA, IS AMENDED TO READ:

"3-1-702. Duties. The court administrator is the administrative officer of the court. Under the direction of the supreme court, the court administrator shall:

(1) prepare and present judicial budget requests to the legislature, including the costs of the state-funded district court program;

(2) collect, compile, and report statistical and other data relating to the business transacted by the courts and provide the information to the legislature on request;

(3) report annually to the law and justice interim committee and at the beginning of each regular legislative session report to the house appropriations subcommittee that considers general government on the status of development and procurement of information technology within the judicial branch, including any changes in the judicial branch information technology strategic plan and any problems encountered in deploying appropriate information technology within the judicial branch. The court administrator shall, to the extent possible, provide that current and future applications are coordinated and compatible with the standards and goals of the executive branch as expressed in the state strategic information technology plan provided for in 2-17-521.

(4) recommend to the supreme court improvements in the judiciary;

(5) administer legal assistance for indigent victims of domestic violence, as provided in 3-2-714;

(6) administer state funding for district courts, as provided in chapter 5, part 9;

(7) administer and report on the child abuse court diversion pilot project provided in 41-3-305;

(8) ADMINISTER THE PRETRIAL PROGRAM PROVIDED FOR IN [SECTION 1];

~~(8)~~(9) administer the judicial branch personnel plan; and

~~(9)~~(10) perform other duties that the supreme court may assign. (Subsection (7) terminates June 30, 2017--sec. 7, Ch. 376, L. 2015.)"

{*Internal References to 3-1-702: None.*}

Section 8. Section 46-9-109 , MCA, is amended to read:

"46-9-109. Release or detention hearing. (1) The release or detention of the defendant must be determined immediately upon the defendant's initial appearance.

(2) In determining whether the defendant should be released or detained, the court may use a validated pretrial risk assessment tool and shall take into account the available information concerning:

(a) the nature and circumstances of the offense charged, including whether the offense involved the use of force or violence;

~~(b) the weight of the evidence against the defendant;~~

~~(c)~~(B) the history and characteristics of the defendant, including:

(i) the defendant's character, physical and mental condition, family ties, employment, financial resources, length of residence in the community, community ties, past conduct, history relating to alcohol or drug abuse, criminal history, and record concerning the appearance at court proceedings; and

(ii) whether at the time of the current arrest or offense, the defendant was on probation, on parole, or on other release pending trial, sentencing, appeal, or completion of sentencing for an offense;

~~(d)~~(C) the nature and seriousness of the danger to any person or the community that would be posed by the defendant's release; and

~~(e)~~(D) the property available as collateral for the defendant's release to determine if it will reasonably ensure the appearance of the defendant as required.

(3) Upon the motion of any party or the court, a hearing may be held to determine whether bail is established in the appropriate amount or whether any other condition or restriction upon the defendant's release will reasonably ensure the appearance of the defendant and the safety of any person or the community."

NEW SECTION. **Section 9. Repealer.** The following section of the Montana Code Annotated is repealed:

46-9-203. Report to county attorney concerning drug users.

~~NEW SECTION. **Section 5. Codification instruction.** [Sections 1 and 2] are intended to be codified as an integral part of Title 44, chapter 4, part 3, and the provisions of Title 44, chapter 4, part 3, apply to [sections 1 and 2].~~

NEW SECTION. **SECTION 10. APPROPRIATION.** THERE IS APPROPRIATED $28,000 FROM THE GENERAL FUND TO THE DEPARTMENT OF CORRECTIONS FOR THE BIENNIUM BEGINNING JULY 1, 2017, FOR THE PURPOSES OF FUNDING THE COUNCIL AS PROVIDED IN [SECTION 3].

NEW SECTION. **SECTION 11. NOTIFICATION TO TRIBAL GOVERNMENTS.** THE SECRETARY OF STATE SHALL SEND A COPY OF [THIS ACT] TO EACH TRIBAL GOVERNMENT LOCATED ON THE SEVEN MONTANA RESERVATIONS AND TO THE LITTLE SHELL CHIPPEWA TRIBE.

NEW SECTION. **SECTION 12. CODIFICATION INSTRUCTION.** (1) ~~[SECTIONS 1 AND 2] ARE~~ [SECTION 1] IS INTENDED TO BE CODIFIED AS AN INTEGRAL PART OF ~~TITLE 44, CHAPTER 4, PART 3,~~ TITLE 3, CHAPTER 1, PART 7, AND THE PROVISIONS OF ~~TITLE 44, CHAPTER 4, PART 3,~~ TITLE 3, CHAPTER 1, PART 7, APPLY TO ~~[SECTIONS 1 AND 2]~~ [SECTION 1].

(2) [SECTION 2] IS INTENDED TO BE CODIFIED AS AN INTEGRAL PART OF TITLE 44, CHAPTER 4, PART 3, AND THE PROVISIONS OF TITLE 44, CHAPTER 4, PART 3, APPLY TO [SECTION 2].

~~(2)~~(3) [SECTION 5] IS INTENDED TO BE CODIFIED AS AN INTEGRAL PART OF TITLE 46, CHAPTER 23, PART 10, AND THE PROVISIONS OF TITLE 46, CHAPTER 23, PART 10, APPLY TO [SECTION 5].

~~(3)~~(4) [SECTION 6] IS INTENDED TO BE CODIFIED AS AN INTEGRAL PART OF TITLE 53, CHAPTER 1, PART 2, AND THE PROVISIONS OF TITLE 53, CHAPTER 1, PART 2, APPLY TO [SECTION 6].

COORDINATION SECTION. **SECTION 13. COORDINATION INSTRUCTION.** IF BOTH SENATE BILL NO. 63 AND [THIS ACT] ARE PASSED AND APPROVED AND IF SENATE BILL NO. 63 CONTAINS A SECTION AMENDING 53-1-203, THEN THE SECTION AMENDING 53-1-203 IS VOID AND ANY REFERENCES IN SENATE BILL NO. 63 TO THE "INCENTIVES AND INTERVENTIONS GRID ADOPTED UNDER 53-1-203" MUST BE CHANGED TO THE "INCENTIVES AND INTERVENTIONS GRID ADOPTED UNDER [SECTION 5 OF SENATE BILL NO. 59].

NEW SECTION. **Section 14. Contingent voidness.** (1) Pursuant to Joint Rule 40-65, if [this act] does not include an appropriation for the purposes of funding [section 3] prior to being transmitted to the governor, then [section 3 and section 4(1)] are void.

(2) If the appropriation in [section ~~9~~ 10] is vetoed, then [section 3 and section 4(1)] are void.

(3) If House Bill No. 2 is passed and approved and if it does not include funding for the pretrial program established in [section 1], then [sections 1, 7, and 8] are void.

NEW SECTION. **Section 15. Effective dates.** (1) Except as provided in ~~subsections~~ section (2) ~~and (3)~~, [this act] is effective on passage and approval.

~~(2) [Sections 1, 2, 7, and 8] are effective October 1, 2017.~~

~~(3) [Section 9 10] is effective July 1, 2017.~~

(2) [sections 1, 2, 7, 8, and 10] are effective July 1, 2017

NEW SECTION. **Section 16. Termination.** [Sections 3 and 4] terminate June 30, 2019.

- END -

RW L

SENATE Free Conference

Exhibit No. 2

Date 4-5-207

Bill No. SB 59

Amendments to Senate Bill No. 59
Reference Copy

Requested by Representative Jimmy Patelis

For the Senate Free Conference Committee

Prepared by Rachel Weiss
April 4, 2017 (1:53pm)

1. Title, page 1, line 6.
Strike: "BOARD OF CRIME CONTROL"
Insert: "OFFICE OF COURT ADMINISTRATOR"
Following: "PRETRIAL"
Strike: "GRANT"

2. Title, page 1, line 8.
Strike: "PROGRAMS"
Insert: "PROSECUTION DIVERSION PROGRAM"

3. Title, page 1, line 14.
Following: "OFFENDERS;"
Insert: "REQUIRING THE COLLECTION OF CERTAIN DATA AND THE PROVISION OF CERTAIN REPORTS;"

4. Title, page 1, line 16.
Strike: "SECTION"
Insert: "SECTIONS 3-1-702 AND"

5. Page 1, line 23.
Strike: "board of crime control"
Insert: "office of court administrator"
Following: "pretrial"
Strike: "grant program to encourage local adoption of"
Insert: "program for felony defendants that includes the use of"

6. Page 1, following line 26.
Insert: "(2) The office of court administrator may use program funds to:

(a) develop, implement, and administer the pretrial program; and

(b) make allocations to counties or nonprofit organizations contracting with a county to provide pretrial services."
Renumber: subsequent subsections

7. Page 1, line 27.
Strike: "Grant"
Insert: "Allocated"

8. Page 1, line 28.

Following: "pretrial"
Insert: "felony"

9. Page 1, line 28 through line 29.
Strike: "A county" on line 28 through "a grant." on line 29

10. Page 1, line 30.
Strike: "board"
Insert: "office"

11. Page 2, line 1.
Following: "services"
Strike: "," through "funds"
Insert: "and activities and the criteria for the allocation of program funds, including that courts accepting funds must use a validated risk assessment tool to assign release conditions and determine placement options"

12. Page 2, line 2.
Following: "funds by"
Insert: "counties and"

13. Page 2, line 3.
Following: "section;"
Strike: "and"
Insert: "(d) establish an advisory council that includes local and district court judges and other stakeholders to provide guidance to the office; and"
Renumber: subsequent subsections

14. Page 2, line 4.
Strike: "adopt rules"
Insert: "develop policies and procedures"
Following: "section"
Insert: ", subject to approval of the supreme court"

15. Page 2, line 5.
Strike: "Grants"
Insert: "Funds"

16. Page 2, line 6.
Strike: "board"
Insert: "office"

17. Page 2, line 7.
Strike: "(4)(b)"
Insert: "(5)(b)"

18. Page 2, line 8.

Strike: "board"
Insert: "office"

19. Page 2, line 29.
Strike: "12"
Insert: "15"

20. Page 2, line 30 through page 3, line 2.
Strike: subsection (A) in its entirety
Insert: "(a) (i) two members of the house of representatives, one selected by the speaker of the house and one by the house minority leader; and

(ii) two members of the senate, one selected by the president of the senate and one selected by the senate minority leader;"

21. Page 3, line 16 through line 17.
Strike: subsection (IV) in its entirety
Insert: "(iv) two representatives of community corrections providers, one of whom must represent a treatment facility and one of whom must represent a prerelease center."

22. Page 3, line 22 through line 23.
Following: "2015"
Strike: "," on line 22 through "RECOMMENDATIONS" on line 23

23. Page 3, line 26.
Following: "RECOMMENDATIONS"
Following: ", including data related to the programs established in [sections 1 and 2]"

24. Page 4, following line 1.
Insert: "(4) Data evaluation performed by the council must:

(a) assess the current electronic records utilized by criminal justice agencies;

(b) review and list all variables collected in each agency's information management system;

(c) establish a baseline for historical data comparisons;

(d) determine whether data is linked to specific offenders through a unique identifying factor;

(e) review archival data and agencies' data retention policies;

(f) determine whether presentence investigation reports are completed electronically in the department of corrections' case management system within established statutory timelines;

(g) review any established data protocols for pretrial services;

(h) assess if the data collected or recommended to be collected on offenders and programs will provide criminal justice agencies, the legislature, and the public adequate information to

determine whether correctional programs produce standardized outcomes across the state and are an efficient use of state resources; and

(i) review and suggest improvements for behavioral health screening instruments and other screening instruments as needed to ensure the integrity of data that is captured in criminal justice agencies' information management systems.

(5) The council shall examine the feasibility of creating and maintaining a public portal through which criminal justice data can be accessed, including data on court case filings, correctional populations, and historical and legacy data sets."

Renumber: subsequent subsections

25. Page 4, line 6.
Strike: "AND"

26. Page 4, line 7.
Following: "REFORMS"
Insert: "; and

(d) a narrative of the council's progress on establishing data collection and uniformity standards and any changes that have been implemented as a result of the council's work"

27. Page 4, line 8.
Strike: "IMPLEMENTATION" through "WITH"

28. Page 4, line 9.
Following: "REFORMS"
Strike: ","
Following: "AND"
Insert: "to"

29. Page 5, line 1.
Following: "INCLUDE"
Insert: ": (a)"

30. Page 5, line 2.
Following: "2015"
Strike: ", AND"
Insert: "; (b)"

31. Page 5, line 4.
Following: "METRICS"
Insert: "; and

(c) the results of initial and ongoing program evaluations that the department is required by [section 6] to conduct, including any identified program deficiencies and the department's plan to correct those deficiencies"

32. Page 5, line 10.

Following: "GRID"
Insert: " -- report"

33. Page 5, line 19.
Following: "EXHAUST"
Insert: "and document"

34. Page 5, following line 19.
Insert: "(2) The grid must recommend the least restrictive placement for offenders based on the result of a validated risk and needs assessment. Placement decisions must be documented in the offender's file and must indicate any other less secure sanction options considered by the probation and parole officer before utilizing a higher level of custody."
Renumber: subsequent subsections

35. Page 5, line 22.
Following: "PAROLE;"
Strike: "AND"

36. Page 5, line 24.
Following: "LAW ENFORCEMENT PERSONNEL,"
Strike: "AND"
Following: "DETENTION CENTER PERSONNEL"
Strike: "."
Insert: ", contracted service providers, and other interested personnel;"

37. Page 5, line 25.
Strike: "(3) THE DEPARTMENT SHALL"
Insert: "(c)"
Following: "ENSURE"
Insert: "that"

38. Page 5, line 27.
Following: "STATE"
Strike: "."
Insert: "; (d) ensure that the guidance and procedures established in the grid consider community safety and the needs of the victim and offender;
(e) collect data relating to placement decisions based on the grid; and
(f) aggregate collected data and provide a report to the law and justice interim committee each biennium."

39. Page 5, line 30.
Following: "SERVICES"
Insert: " -- report"

40. Page 6, line 4.
Following: "ADOPT"
Strike: "A"
Insert: "an evidence-based"
Following: "THAT"
Strike: "ENSURES" through "PRACTICES;"
Insert: "measures how closely correctional programs meet the known principles of effective intervention. The tool must measure program content and capacity to ensure the delivery of effective interventions for offenders."

41. Page 6, line 6.
Following: "ENSURE"
Insert: "that"

42. Page 6, line 12.
Following: "STANDARDS FOR"
Strike: "THE"
Following: "HEALTH"
Insert: "PROGRAMS"

43. Page 6, following line 14.
Insert: "(6) The department shall:

(a) develop and maintain a list of evidence-based treatment curriculums to be utilized in programs operated by or under contract with the department with priority being placed on adopting treatment curriculums that are in the public domain and evidence-based; and

(b) report the results of all initial and ongoing program evaluations to the law and justice interim committee each interim, including any identified program deficiencies and the department's plan to correct those deficiencies."
Renumber: subsequent subsections

44. Page 6, line 15.
Following: "ENSURE"
Insert: "that"

45. Page 6, line 16 through 17.
Strike: "INCLUDE" on line 16 through "PRACTICES" on line 17
Insert: "contain:

(a) minimum program standards that adhere to the evidence-based program evaluation tool adopted as required in subsection (2);

(b) offender eligibility criteria for program entry with the contractor; and

(c) program dosage requirements that conform to evidence-based practices"

46. Page 6, line 18.
Insert: "**Section 7.** Section 3-1-702, MCA, is amended to read:

"**3-1-702. Duties.** The court administrator is the administrative officer of the court. Under the direction of the supreme court, the court administrator shall:

(1) prepare and present judicial budget requests to the legislature, including the costs of the state-funded district court program;

(2) collect, compile, and report statistical and other data relating to the business transacted by the courts and provide the information to the legislature on request;

(3) report annually to the law and justice interim committee and at the beginning of each regular legislative session report to the house appropriations subcommittee that considers general government on the status of development and procurement of information technology within the judicial branch, including any changes in the judicial branch information technology strategic plan and any problems encountered in deploying appropriate information technology within the judicial branch. The court administrator shall, to the extent possible, provide that current and future applications are coordinated and compatible with the standards and goals of the executive branch as expressed in the state strategic information technology plan provided for in 2-17-521.

(4) recommend to the supreme court improvements in the judiciary;

(5) administer legal assistance for indigent victims of domestic violence, as provided in 3-2-714;

(6) administer state funding for district courts, as provided in chapter 5, part 9;

(7) administer and report on the child abuse court diversion pilot project provided in 41-3-305;

(8) administer the pretrial program provided for in [section 1];

~~(8)~~ (9) administer the judicial branch personnel plan; and

~~(9)~~ (10) perform other duties that the supreme court may assign. (Subsection (7) terminates June 30, 2017--sec. 7, Ch. 376, L. 2015.)"

{*Internal References to 3-1-702: None.*}"
Renumber: subsequent sections

47. Page 6, line 26.
Strike: subsection (b) in its entirety
Renumber: subsequent subsections

48. Page 7, line 27.
Strike: "[SECTIONS 1 AND 2] ARE"
Insert: "[Section 1] is"

49. Page 7, line 28.
Following: "INTEGRAL PART OF"
Strike: "TITLE 44, CHAPTER 4, PART 3,"
Insert: "Title 3, chapter 1, part 7,"

50. Page 7, line 28 through line 29.
Strike: "TITLE 44" on line 28 through "3," on line 29
Insert: "Title 3, chapter 1, part 7,"

51. Page 7, line 29.
Strike: "[SECTIONS 1 AND 2]."
Insert: "[section 1].
(2) [Section 2] is intended to be codified as an integral part of Title 44, chapter 4, part 3, and the provisions of Title 44, chapter 4, part 3, apply to [section 2]."
Renumber: subsequent subsections

52. Page 8, line 12.
Following: "APPROPRIATION"
Insert: "for the purposes of funding [section 3]"

53. Page 8, line 14.
Strike: "9"
Insert: "10"

54. Page 8, following line 14.
Insert: "(3) If House Bill No. 2 is passed and approved and if it does not include funding for the pretrial program established in [section 1], then [sections 1, 7, and 8] are void."

55. Page 8, line 16.
Strike: "SUBSECTIONS"
Insert: "section"
Strike: "AND (3)"

56. Page 8, line 18 through line 19.
Strike: subsection (2) through subsection (3) in their entirety
Insert: "(2) [Sections 1, 2, 7, 8, and 10] are effective July 1, 2017."

- END -

Montana State Legislature

65th Montana Legislature - 2017

ADDITIONAL DOCUMENTS

Business Report

Signed by Chairman

Roll Call

Attendance

Standing Committee Reports

Tabled Bills

Fiscal Reports

Roll Call Votes

Proxy Forms

Visitor Registration

Additional Documents

Witness Statements that are not presented as exhibits. All informational items handed in after meeting. Petitions; etcetera.

- **Any documents which were submitted after the committee hearing has ended and/or was submitted late within 24 hours regarding information in the committee hearing.**

YOU MAY VIEW THE ORIGINAL DOCUMENTS

AT THE MONTANA HISTORICAL SOCIETY

MONTANA HISTORICAL SOCIETY ARCHIVES
225 N. ROBERTS
HELENA, MT 59620-1201
2017 LEGISLATIVE SESSION
e-DOCUMENT SPECIALIST: SUSIE HAMILTON

BUSINESS REPORT

MONTANA SENATE
65th LEGISLATURE - REGULAR SESSION

SENATE FREE CONFERENCE COMMITTEE

Date: Wednesday, April 5, 2017 **Time:** 11:30 A.M.
Place: Capitol **Room:** 350

BILLS and RESOLUTIONS HEARD:

EXECUTIVE ACTION TAKEN:

SB 59 - Do Pass As Amended

Recommend that the Free Conference Committee Report Be Adopted

Comments:

SEN. Keith Regier, Chair

MONTANA STATE SENATE

ROLL CALL

FREE CONFERENCE COMMITTEE

Date: 4/5/2007 HB/SB No. 59

NAME	PRESENT	ABSENT/ EXCUSED
Sen. Regier	✓	
Sen. Vincent	✓	
Sen. Wolken	✓	
Rep. Lynch	✓	
Rep. Brodehl	✓	
Rep. Pateis	✓	

Staff: Rachael Weiss

Secretary: Charlene Devine

FREE CONFERENCE COMMITTEE
on Senate Bill 59
Report No. 001, April 5, 2017

Mr. President and Mr. Speaker:

We, your Free Conference Committee met and considered **Senate Bill 59** (reference copy -- salmon) and recommend this Free Conference Committee report be adopted.

For the Senate:

Sen. Keith Regier Chair

Sen. Chas Vincent

Sen. Cynthia Wolken

Amendment Coordinator

For the House:

Rep. Ryan Lynch Vice Chair

Rep. Randy Brodehl

Rep. Jimmy Patelis

And, recommend that **Senate Bill 59** (reference copy -- salmon) be amended as follows:

1. Title, page 1, line 6.
Strike: "BOARD OF CRIME CONTROL"
Insert: "OFFICE OF COURT ADMINISTRATOR"
Following: "PRETRIAL"
Strike: "GRANT"

2. Title, page 1, line 8.
Strike: "PROGRAMS"
Insert: "PROSECUTION DIVERSION PROGRAM"

ADOPT
REJECT

Amendment # SB 59001

3. Title, page 1, line 14.
Following: "OFFENDERS;"
Insert: "REQUIRING THE COLLECTION OF CERTAIN DATA AND THE PROVISION OF CERTAIN REPORTS;"

4. Title, page 1, line 16.
Strike: "SECTION"
Insert: "SECTIONS 3-1-702 AND"

5. Page 1, line 23.
Strike: "board of crime control"
Insert: "office of court administrator"
Following: "pretrial"
Strike: "grant program to encourage local adoption of"
Insert: "program for felony defendants that includes the use of"

6. Page 1, following line 26.
Insert: "(2) The office of court administrator may use program funds to:

(a) develop, implement, and administer the pretrial program; and

(b) make allocations to counties or nonprofit organizations contracting with a county to provide pretrial services."
Renumber: subsequent subsections

7. Page 1, line 27.
Strike: "Grant"
Insert: "Allocated"

8. Page 1, line 28.
Following: "pretrial"
Insert: "felony"

9. Page 1, line 28 through line 29.
Strike: "A county" on line 28 through "a grant." on line 29

10. Page 1, line 30.
Strike: "board"
Insert: "office"

11. Page 2, line 1.
Following: "services"
Strike: "," through "funds"
Insert: "and activities and the criteria for the allocation of program funds, including that courts accepting funds must use a validated risk assessment tool to assign release conditions and determine placement options"

12. Page 2, line 2.
Following: "funds by"

Insert: "counties and"

13. Page 2, line 3.
Following: "section;"
Strike: "and"
Insert: "(d) establish an advisory council that includes local and district court judges and other stakeholders to provide guidance to the office; and"
Renumber: subsequent subsections

14. Page 2, line 4.
Strike: "adopt rules"
Insert: "develop policies and procedures"
Following: "section"
Insert: ", subject to approval of the supreme court"

15. Page 2, line 5.
Strike: "Grants"
Insert: "Funds"

16. Page 2, line 6.
Strike: "board"
Insert: "office"

17. Page 2, line 7.
Strike: "(4)(b)"
Insert: "(5)(b)"

18. Page 2, line 8.
Strike: "board"
Insert: "office"

19. Page 2, line 29.
Strike: "12"
Insert: "15"

20. Page 2, line 30 through page 3, line 2.
Strike: subsection (A) in its entirety
Insert: "(a) (i) two members of the house of representatives, one selected by the speaker of the house and one by the house minority leader; and
(ii) two members of the senate, one selected by the president of the senate and one selected by the senate minority leader;"

21. Page 3, line 16 through line 17.
Strike: subsection (IV) in its entirety
Insert: "(iv) two representatives of community corrections providers, one of whom must represent a treatment facility and one of whom must represent a prerelease center."

22. Page 3, line 22 through line 23.
Following: "2015"
Strike: "," on line 22 through "RECOMMENDATIONS" on line 23

23. Page 3, line 26.
Following: "RECOMMENDATIONS"
Following: ", including data related to the programs established in [sections 1 and 2]"

24. Page 4, following line 1.
Insert: "(4) Data evaluation performed by the council must:

(a) assess the current electronic records utilized by criminal justice agencies;

(b) review and list all variables collected in each agency's information management system;

(c) establish a baseline for historical data comparisons;

(d) determine whether data is linked to specific offenders through a unique identifying factor;

(e) review archival data and agencies' data retention policies;

(f) determine whether presentence investigation reports are completed electronically in the department of corrections' case management system within established statutory timelines;

(g) review any established data protocols for pretrial services;

(h) assess if the data collected or recommended to be collected on offenders and programs will provide criminal justice agencies, the legislature, and the public adequate information to determine whether correctional programs produce standardized outcomes across the state and are an efficient use of state resources; and

(i) review and suggest improvements for behavioral health screening instruments and other screening instruments as needed to ensure the integrity of data that is captured in criminal justice agencies' information management systems.

(5) The council shall examine the feasibility of creating and maintaining a public portal through which criminal justice data can be accessed, including data on court case filings, correctional populations, and historical and legacy data sets."
Renumber: subsequent subsections

25. Page 4, line 6.
Strike: "AND"

26. Page 4, line 7.
Following: "REFORMS"
Insert: "; and

(d) a narrative of the council's progress on establishing data collection and uniformity standards and any changes that have been implemented as a result of the council's work"

27. Page 4, line 8.
Strike: "IMPLEMENTATION" through "WITH"

28. Page 4, line 9.
Following: "REFORMS"
Strike: ","
Following: "AND"
Insert: "to"

29. Page 5, line 1.
Following: "INCLUDE"
Insert: ": (a)"

30. Page 5, line 2.
Following: "2015"
Strike: ", AND"
Insert: "; (b)"

31. Page 5, line 4.
Following: "METRICS"
Insert: "; and
(c) the results of initial and ongoing program evaluations that the department is required by [section 6] to conduct, including any identified program deficiencies and the department's plan to correct those deficiencies"

32. Page 5, line 10.
Following: "**GRID**"
Insert: " -- **report**"

33. Page 5, line 19.
Following: "EXHAUST"
Insert: "and document"

34. Page 5, following line 19.
Insert: "(2) The grid must recommend the least restrictive placement for offenders based on the result of a validated risk and needs assessment. Placement decisions must be documented in the offender's file and must indicate any other less secure sanction options considered by the probation and parole officer before utilizing a higher level of custody."
Renumber: subsequent subsections

35. Page 5, line 22.
Following: "PAROLE;"
Strike: "AND"

36. Page 5, line 24.
Following: "LAW ENFORCEMENT PERSONNEL,"

Strike: "AND"
Following: "DETENTION CENTER PERSONNEL"
Strike: "."
Insert: ", contracted service providers, and other interested personnel;"

37. Page 5, line 25.
Strike: "(3) THE DEPARTMENT SHALL"
Insert: "(c)"
Following: "ENSURE"
Insert: "that"

38. Page 5, line 27.
Following: "STATE"
Strike: "."
Insert: "; (d) ensure that the guidance and procedures established in the grid consider community safety and the needs of the victim and offender;
(e) collect data relating to placement decisions based on the grid; and
(f) aggregate collected data and provide a report to the law and justice interim committee each biennium."

39. Page 5, line 30.
Following: "**SERVICES**"
Insert: " **-- report**"

40. Page 6, line 4.
Following: "ADOPT"
Strike: "A"
Insert: "an evidence-based"
Following: "THAT"
Strike: "ENSURES" through "PRACTICES;"
Insert: "measures how closely correctional programs meet the known principles of effective intervention. The tool must measure program content and capacity to ensure the delivery of effective interventions for offenders."

41. Page 6, line 6.
Following: "ENSURE"
Insert: "that"

42. Page 6, line 12.
Following: "STANDARDS FOR"
Strike: "THE"
Following: "HEALTH"
Insert: "PROGRAMS"

43. Page 6, following line 14.

Insert: "(6) The department shall:

(a) develop and maintain a list of evidence-based treatment curriculums to be utilized in programs operated by or under contract with the department with priority being placed on adopting treatment curriculums that are in the public domain and evidence-based; and

(b) report the results of all initial and ongoing program evaluations to the law and justice interim committee each interim, including any identified program deficiencies and the department's plan to correct those deficiencies."

Renumber: subsequent subsections

44. Page 6, line 15.
Following: "ENSURE"
Insert: "that"

45. Page 6, line 16 through 17.
Strike: "INCLUDE" on line 16 through "PRACTICES" on line 17
Insert: "contain:

(a) minimum program standards that adhere to the evidence-based program evaluation tool adopted as required in subsection (2);

(b) offender eligibility criteria for program entry with the contractor; and

(c) program dosage requirements that conform to evidence-based practices"

46. Page 6, line 18.
Insert: "**Section 7.** Section 3-1-702, MCA, is amended to read:

"**3-1-702. Duties.** The court administrator is the administrative officer of the court. Under the direction of the supreme court, the court administrator shall:

(1) prepare and present judicial budget requests to the legislature, including the costs of the state-funded district court program;

(2) collect, compile, and report statistical and other data relating to the business transacted by the courts and provide the information to the legislature on request;

(3) report annually to the law and justice interim committee and at the beginning of each regular legislative session report to the house appropriations subcommittee that considers general government on the status of development and procurement of information technology within the judicial branch, including any changes in the judicial branch information technology strategic plan and any problems encountered in deploying appropriate information technology within the judicial branch. The court administrator shall, to the extent possible, provide that current and future applications are coordinated and compatible with the standards and goals of the executive branch as expressed in the state strategic information technology plan provided for in 2-17-521.

(4) recommend to the supreme court improvements in the judiciary;

(5) administer legal assistance for indigent victims of domestic violence, as provided in 3-2-714;

(6) administer state funding for district courts, as provided in chapter 5, part 9;

(7) administer and report on the child abuse court diversion pilot project provided in 41-3-305;

(8) administer the pretrial program provided for in [section 1];

~~(8)~~(9) administer the judicial branch personnel plan; and

~~(9)~~(10) perform other duties that the supreme court may assign. (Subsection (7) terminates June 30, 2017--sec. 7, Ch. 376, L. 2015.)""

Renumber: subsequent sections

47. Page 6, line 26.
Strike: subsection (b) in its entirety
Renumber: subsequent subsections

48. Page 7, line 27.
Strike: "[SECTIONS 1 AND 2] ARE"
Insert: "[Section 1] is"

49. Page 7, line 28.
Following: "INTEGRAL PART OF"
Strike: "TITLE 44, CHAPTER 4, PART 3,"
Insert: "Title 3, chapter 1, part 7,"

50. Page 7, line 28 through line 29.
Strike: "TITLE 44" on line 28 through "3," on line 29
Insert: "Title 3, chapter 1, part 7,"

51. Page 7, line 29.
Strike: "[SECTIONS 1 AND 2]."
Insert: "[section 1].

(2) [Section 2] is intended to be codified as an integral part of Title 44, chapter 4, part 3, and the provisions of Title 44, chapter 4, part 3, apply to [section 2]."
Renumber: subsequent subsections

52. Page 8, line 12.
Following: "APPROPRIATION"
Insert: "for the purposes of funding [section 3]"

53. Page 8, line 14.
Strike: "9"
Insert: "10"

54. Page 8, following line 14.
Insert: "(3) If House Bill No. 2 is passed and approved and if

it does not include funding for the pretrial program established in [section 1], then [sections 1, 7, and 8] are void."

55. Page 8, line 16.
Strike: "SUBSECTIONS"
Insert: "section"
Strike: "AND (3)"

56. Page 8, line 18 through line 19.
Strike: subsection (2) through subsection (3) in their entirety
Insert: "(2) [Sections 1, 2, 7, 8, and 10] are effective July 1, 2017."

- END -

MONTANA STATE SENATE
Visitors Register
SENATE FREE CONFERENCE COMMITTEE

Wednesday, April 5, 2017
SB 59 - Generally revise criminal justice laws
Sponsor: **Sen. Cynthia Wolken**

PLEASE PRINT

Name	Representing	Support	Oppose	Info

Please leave prepared testimony with Secretary. Witness Statement forms are available if you care to submit written testimony.

GOVERNOR'S OFFICE OF BUDGET AND PROGRAM PLANNING

Fiscal Note 2019 Biennium

Bill #	SB0059	**Title:**	Generally revise criminal justice laws
Primary Sponsor:	Wolken, Cynthia	**Status:**	As Amended in Free Conference Committee

☐Significant Local Gov Impact ✓Needs to be included in HB 2 ☐Technical Concerns

☐Included in the Executive Budget ☐Significant Long-Term Impacts ☐Dedicated Revenue Form Attached

FISCAL SUMMARY

	FY 2018 Difference	FY 2019 Difference	FY 2020 Difference	FY 2021 Difference
Expenditures:				
General Fund	$916,443	$888,443	$901,770	$915,296
Revenue:				
General Fund	$0	$0	$0	$0
Net Impact-General Fund Balance:	($916,443)	($888,443)	($901,770)	($915,296)

Description of fiscal impact: SB 59 creates a pretrial grant program to be administered by the Office of the Court Administrator; it creates a prosecution diversion grant program to be administered by the Board of Crime Control; and it creates the Montana Criminal Justice Oversight Council to track the implementation of justice reinvestment legislation related to the Commission on Sentencing.

FISCAL ANALYSIS

Assumptions:

Department of Corrections

1. SB 59 creates an oversight council to track the effects of criminal justice legislation and requires the DOC to adopt an evaluation tool and conduct program evaluations to report to the council. The bill also requires DOC adopt and maintain an incentives and interventions grid to guide community supervision of offenders.
2. The bill contains a general fund appropriation of $28,000 for the biennium beginning July 1, 2017 to establish the Oversight Council.
3. The bill designates the director of DOC, or designee, as the presiding officer of the oversight council and would require DOC staff to analyze data, enforce standards, and submit reports to the oversight council and legislature.
4. DOC would need to hire an additional economist or statistician to conduct data analyses at $108,443 per year.
5. HB 2 includes one-time-only appropriations of $100,000 per year to fund analysis and reporting.

6. Section 9 contains a general fund appropriation of $28,000 for the 2019 biennium for council expenses.
7. The Constitutional Amendment known as Marsy's Law substantially expands the definition of a victim and requires that victims be notified of and have the option to be present at all proceedings that involve preparing an offender for actual or potential release or alternative placement. The Department of Corrections therefore anticipates that the implementation of Marsy's Law will increase the cost of any bill that could involve victim notification.

Montana Board of Crime Control

8. The bill indicates that the prosecution diversion grant program should be developed and administered within the limits of available funds. There are no resources available within existing budgets to implement such a program, therefore no actions would be taken. If the program were funded, the agency would need a 0.25 FTE program manager and a 0.25 FTE accountant with combined salary and benefits cost of $44,304 per year.
9. The agency will pursue available federal grants for the prosecution diversion program.
10. Costs for the Executive Director appointed to the Criminal Justice Oversight Council will be absorbed by current agency operation funding.

Judicial Branch

11. There is $780,000 per year for the development, implementation, and administration of a pretrial grant program included in HB 2. There would be $702,000 each year distributed in grants, and $78,000 per year used for personal services and operating expenses to administer the grants.
12. A 1.5% inflation factor is applied in FY 2020 and FY 2021.

	FY 2018 Difference	FY 2019 Difference	FY 2020 Difference	FY 2021 Difference
Fiscal Impact:				
FTE	1.00	1.00	1.00	1.00
Expenditures:				
Personal Services	$123,963	$123,963	$125,822	$127,710
Operating Expenses	$62,480	$62,480	$63,417	$64,368
Grants	$702,000	$702,000	$712,530	$723,218
Council Expenses	$28,000	$0	$0	$0
TOTAL Expenditures	$916,443	$888,443	$901,770	$915,296
Funding of Expenditures:				
General Fund (01)	$916,443	$888,443	$901,770	$915,296
TOTAL Funding of Exp.	$916,443	$888,443	$901,770	$915,296
Revenues:				
General Fund (01)	$0	$0	$0	$0
TOTAL Revenues	$0	$0	$0	$0
Net Impact to Fund Balance (Revenue minus Funding of Expenditures):				
General Fund (01)	($916,443)	($888,443)	($901,770)	($915,296)

Sponsor's Initials	*Date*	*Budget Director's Initials*	*Date*

SENATE BILL NO. 59
INTRODUCED BY C. WOLKEN
BY REQUEST OF THE COMMISSION ON SENTENCING

AN ACT GENERALLY REVISING CRIMINAL JUSTICE LAWS; REQUIRING THE OFFICE OF COURT ADMINISTRATOR TO CREATE A PRETRIAL PROGRAM; REQUIRING THE BOARD OF CRIME CONTROL TO CREATE A PROSECUTION DIVERSION GRANT PROGRAM; GRANTING THE BOARD RULEMAKING AUTHORITY TO ADMINISTER THE PROSECUTION DIVERSION PROGRAM; ALLOWING A COURT TO USE INFORMATION FROM A PRETRIAL RISK ASSESSMENT TOOL WHEN DETERMINING WHETHER A DEFENDANT SHOULD BE RELEASED OR DETAINED; CREATING AN OVERSIGHT COUNCIL TO MONITOR AND REPORT ON THE EFFECTS OF CRIMINAL JUSTICE LEGISLATION; REQUIRING THE QUALITY ASSURANCE UNIT OF THE DEPARTMENT OF CORRECTIONS TO ADOPT AN EVALUATION TOOL AND CONDUCT PROGRAM EVALUATIONS; REQUIRING THE DEPARTMENT TO ADOPT AND MAINTAIN AN INCENTIVES AND INTERVENTIONS GRID TO GUIDE COMMUNITY SUPERVISION OF OFFENDERS; REQUIRING THE COLLECTION OF CERTAIN DATA AND THE PROVISION OF CERTAIN REPORTS; ELIMINATING THE REQUIREMENT THAT A JUDGE OR JUSTICE OF THE PEACE REPORT DRUG USERS TO THE COUNTY ATTORNEY; PROVIDING AN APPROPRIATION; AMENDING SECTIONS 3-1-702 AND 46-9-109, MCA; REPEALING SECTION 46-9-203, MCA; PROVIDING FOR CONTINGENT VOIDNESS; AND PROVIDING EFFECTIVE DATES AND A TERMINATION DATE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Pretrial program -- rulemaking. (1) Within the limits of available funds, the office of court administrator shall develop and administer a pretrial program for felony defendants that includes the use of:

(a) a validated pretrial risk assessment tool; and

(b) a dangerousness or lethality assessment for individuals charged with an offense of partner or family member assault.

(2) The office of court administrator may use program funds to:

(a) develop, implement, and administer the pretrial program; and

(b) make allocations to counties or nonprofit organizations contracting with a county to provide pretrial services.

(3) Allocated funds may be used for pretrial services staff, to obtain assessment instruments, and to provide supervision of pretrial felony defendants.

(4) In administering the pretrial program, the office shall:

(a) identify priorities for funding services and activities and the criteria for the allocation of program funds, including that courts accepting funds must use a validated risk assessment tool to assign release conditions and determine placement options;

(b) monitor the expenditure of funds by counties and organizations receiving funds under this section;

(c) evaluate the effectiveness of services and activities under this section;

(d) establish an advisory council that includes local and district court judges and other stakeholders to provide guidance to the office; and

(e) develop policies and procedures necessary to implement this section, subject to approval of the supreme court.

(5) (a) Funds available under subsection (1) consist of state appropriations and federal funds received by the office for the purposes of administering the pretrial program or any funds received pursuant to subsection (5)(b).

(b) The office may accept gifts, grants, and donations from other public or private sources, which must be used within the scope of this section.

Section 2. Prosecution diversion program -- rulemaking. (1) Within the limits of available funds, the board of crime control shall develop and administer a prosecution diversion grant program to encourage local adoption of prosecution diversion programs under 46-16-130.

(2) Grant funds may be used for staff, to provide supervision, or to contract for program services for defendants in the program. A county attorney or a nonprofit organization contracting with a county attorney may be eligible for a grant.

(3) In administering the prosecution diversion program, the board shall:

(a) identify priorities for funding services, activities, and criteria for the receipt of program funds;

(b) monitor the expenditure of funds by organizations receiving funds under this section;

(c) evaluate the effectiveness of services and activities under this section; and

(d) adopt rules necessary to implement this section.

(4) (a) Grants available under subsection (1) consist of state appropriations and federal funds received by the board for the purposes of administering the prosecution diversion program or any funds received pursuant to subsection (4)(b).

(b) The board may accept gifts, grants, and donations from other public or private sources, which must be used within the scope of this section.

Section 3. Montana criminal justice oversight council -- duties -- membership. (1) There is a Montana criminal justice oversight council. The council consists of 15 members as follows:

(a) (i) two members of the house of representatives, one selected by the speaker of the house and one by the house minority leader; and

(ii) two members of the senate, one selected by the president of the senate and one selected by the senate minority leader;

(b) one member selected by the chief justice of the Montana supreme court;

(c) the director of the department of corrections or the director's designee;

(d) an employee of the department of corrections selected by the director who has expertise in data collection and reporting;

(e) one member selected by the director of the department of public health and human services who has expertise in behavioral health treatment services;

(f) the executive director of the board of crime control or the director's designee;

(g) a county sheriff appointed by the attorney general; and

(h) the following individuals appointed by the governor:

(i) a member of a state-recognized or federally recognized Indian tribe located within the boundaries of the state of Montana who has expertise in criminal justice;

(ii) one member of the board of pardons and parole;

(iii) one representative of crime victims; and

(iv) two representatives of community corrections providers, one of whom must represent a treatment facility and one of whom must represent a prerelease center.

(2) The director of the department of corrections or the director's designee shall serve as presiding officer.

(3) The council shall:

(a) review the recommendations of the commission on sentencing established in Chapter 343, Laws of 2015;

(b) receive and analyze data collected by agencies and entities charged with implementing the recommendations of the commission on sentencing and that are collecting data during the implementation and management of specific recommendations, including data related to the programs established in [sections 1 and 2];

(c) assess outcomes from the recommendations the commission on sentencing has made and corresponding criminal justice reforms;

(d) request, receive, and review data and report on performance outcome data relating to criminal justice reform; and

(e) receive reports required by [section 4] to be produced by the department of corrections.

(4) Data evaluation performed by the council must:

(a) assess the current electronic records utilized by criminal justice agencies;

(b) review and list all variables collected in each agency's information management system;

(c) establish a baseline for historical data comparisons;

(d) determine whether data is linked to specific offenders through a unique identifying factor;

(e) review archival data and agencies' data retention policies;

(f) determine whether presentence investigation reports are completed electronically in the department of corrections' case management system within established statutory timelines;

(g) review any established data protocols for pretrial services;

(h) assess if the data collected or recommended to be collected on offenders and programs will provide criminal justice agencies, the legislature, and the public adequate information to determine whether correctional programs produce standardized outcomes across the state and are an efficient use of state resources; and

(i) review and suggest improvements for behavioral health screening instruments and other screening instruments as needed to ensure the integrity of data that is captured in criminal justice agencies' information management systems.

(5) The council shall examine the feasibility of creating and maintaining a public portal through which criminal justice data can be accessed, including data on court case filings, correctional populations, and historical and legacy data sets.

(6) The council shall submit by September 1 of each even-numbered year a biennial report to the governor and legislature, as provided in 5-11-210. The report must include:

(a) a description of the council's proceedings since the previous report;

(b) a summary of savings from criminal justice reforms and recommendations for how the savings should be reinvested to reduce recidivism;

(c) a description of performance measures and outcomes related to criminal justice reforms; and

(d) a narrative of the council's progress on establishing data collection and uniformity standards and any changes that have been implemented as a result of the council's work.

(7) The council may appoint a working group to track any legislation resulting from criminal justice reforms and to perform other detailed analysis as directed by the council. If appointed, the working group shall meet regularly and report to the council as the council requires. The working group may include representatives of criminal justice agencies and key constituencies that are not members of the council.

(8) The council may request legislation to enact changes to the state's criminal justice system that the council finds necessary.

(9) The judicial branch, the department of corrections, the department of public health and human services, the board of pardons and parole, and the legislative services and fiscal divisions shall provide data and information as requested by the council.

(10) Appointments made under subsection (1) must be made within 60 days after [the effective date of this section]. A vacancy on the council must be filled in the manner of the original appointment.

(11) Council members must be reimbursed for travel expenses as provided in 2-18-501 through 2-18-503. Members of the council who are full-time salaried officers or employees of this state or any political subdivision are entitled to their regular compensation. Legislative members must be compensated as provided in 5-2-302.

(12) The council shall report to the law and justice interim committee and the legislative finance committee as requested.

Section 4. Department of corrections to report on criminal justice reinvestment legislation impacts. In addition to any data or reports required by the Montana criminal justice oversight council pursuant to [section 3], the department of corrections shall:

(1) submit an annual report to the Montana criminal justice oversight council by August 15 of each year. The report must include:

(a) the impact of any legislation related to recommendations from the commission on sentencing established in Chapter 343, Laws of 2015;

(b) the extent to which the department has established and met implementation goals and projections concerning the prison population, recidivism rate, and other key public safety metrics; and

(c) the results of initial and ongoing program evaluations that the department is required by [section 6] to conduct, including any identified program deficiencies and the department's plan to correct those deficiencies.

(2) report to the legislature by January 1 of each year on the amount of savings generated and on the prison population impact under any legislation resulting from the recommendations of the commission on sentencing established in Chapter 343, Laws of 2015, for the purpose of tracking the progress toward meeting the impact estimates and goals of the legislation.

Section 5. Supervision responses grid -- report. (1) The department shall revise, maintain, and fully implement the policy known as the Montana incentives and interventions grid. The grid must guide responses to negative and positive behavior by people under supervision by the department, including responses to violations of supervision conditions in a swift, certain, and proportional manner. The grid must include guidance and procedures to determine when and how to:

(a) request a warrant or arrest without a warrant;

(b) use a 72-hour detention;

(c) initiate an intervention hearing;

(d) seek departmental approval to use up to 90-day interventions; and

(e) exhaust and document appropriate graduated violation responses before initiating the revocation process.

(2) The grid must recommend the least restrictive placement for offenders based on the result of a validated risk and needs assessment. Placement decisions must be documented in the offender's file and must indicate any other less secure sanction options considered by the probation and parole officer before utilizing a higher level of custody.

(3) The department shall:

(a) provide information and training on the grid for probation and parole officers and supervisors and for members and staff of the board of pardons and parole;

(b) offer information and training on the grid to district court judges, prosecution and defense attorneys, law enforcement personnel, county detention center personnel, contracted service providers, and other interested personnel;

(c) review the grid every 5 years to ensure that it adheres to evidence-based practices and that the use of sanctions and incentives by probation and parole officers is consistent across the state;

(d) ensure that the guidance and procedures established in the grid consider community safety and the needs of the victim and offender;

(e) collect data relating to placement decisions based on the grid; and

(f) aggregate collected data and provide a report to the law and justice interim committee each biennium.

Section 6. Quality assurance unit -- program standards -- evaluation -- cooperation with department of public health and human services -- report. (1) There is a quality assurance unit in the department of corrections.

(2) In addition to duties assigned to it by the department director or otherwise required by law, the unit shall:

(a) adopt an evidence-based program evaluation tool that measures how closely correctional programs meet the known principles of effective intervention. The tool must measure program content and capacity to ensure the delivery of effective interventions for offenders.

(b) conduct evaluations of programs to reduce recidivism that are funded by the state; and

(c) enforce standards to ensure that programs are using best practices for reducing recidivism, including targeting highest-risk individuals, adhering to evidence-based or research-driven practices, and integrating opportunities for ongoing quality assurance and evaluation.

(3) Subject to the availability of funding, the department may contract with an independent contractor or academic institution to complete evaluations.

(4) The unit shall work jointly with the department of public health and human services to develop standards for quality assurance in behavioral health programs or other clinical programs.

(5) The unit shall conduct regular evaluations of programs operated by the department or under a contract with the department.

(6) The department shall:

(a) develop and maintain a list of evidence-based treatment curriculums to be utilized in programs operated by or under contract with the department with priority being placed on adopting treatment curriculums that are in the public domain and evidence-based; and

(b) report the results of all initial and ongoing program evaluations to the law and justice interim committee each interim, including any identified program deficiencies and the department's plan to correct those deficiencies.

(7) After [the effective date of this section], the department shall ensure that contracts signed or renewed with providers contain:

(a) minimum program standards that adhere to the evidence-based program evaluation tool adopted as required in subsection (2);

(b) offender eligibility criteria for program entry with the contractor; and

(c) program dosage requirements that conform to evidence-based practices.

Section 7. Section 3-1-702, MCA, is amended to read:

"3-1-702. Duties. The court administrator is the administrative officer of the court. Under the direction of the supreme court, the court administrator shall:

(1) prepare and present judicial budget requests to the legislature, including the costs of the state-funded district court program;

(2) collect, compile, and report statistical and other data relating to the business transacted by the courts and provide the information to the legislature on request;

(3) report annually to the law and justice interim committee and at the beginning of each regular legislative session report to the house appropriations subcommittee that considers general government on the status of development and procurement of information technology within the judicial branch, including any changes in the judicial branch information technology strategic plan and any problems encountered in deploying appropriate information technology within the judicial branch. The court administrator shall, to the extent possible, provide that current and future applications are coordinated and compatible with the standards and goals of the executive branch as expressed in the state strategic information technology plan provided for in 2-17-521.

(4) recommend to the supreme court improvements in the judiciary;

(5) administer legal assistance for indigent victims of domestic violence, as provided in 3-2-714;

(6) administer state funding for district courts, as provided in chapter 5, part 9;

(7) administer and report on the child abuse court diversion pilot project provided in 41-3-305;

(8) administer the pretrial program provided for in [section 1];

~~(8)~~(9) administer the judicial branch personnel plan; and

~~(9)~~(10) perform other duties that the supreme court may assign. (Subsection (7) terminates June 30, 2017--sec. 7, Ch. 376, L. 2015.)"

Section 8. Section 46-9-109, MCA, is amended to read:

"46-9-109. Release or detention hearing. (1) The release or detention of the defendant must be determined immediately upon the defendant's initial appearance.

(2) In determining whether the defendant should be released or detained, the court may use a validated pretrial risk assessment tool and shall take into account the available information concerning:

(a) the nature and circumstances of the offense charged, including whether the offense involved the use of force or violence;

~~(b) the weight of the evidence against the defendant;~~

~~(c)~~(b) the history and characteristics of the defendant, including:

(i) the defendant's character, physical and mental condition, family ties, employment, financial resources, length of residence in the community, community ties, past conduct, history relating to alcohol or drug abuse, criminal history, and record concerning the appearance at court proceedings; and

(ii) whether at the time of the current arrest or offense, the defendant was on probation, on parole, or on other release pending trial, sentencing, appeal, or completion of sentencing for an offense;

~~(d)~~(c) the nature and seriousness of the danger to any person or the community that would be posed by the defendant's release; and

~~(e)~~(d) the property available as collateral for the defendant's release to determine if it will reasonably ensure the appearance of the defendant as required.

(3) Upon the motion of any party or the court, a hearing may be held to determine whether bail is established in the appropriate amount or whether any other condition or restriction upon the defendant's release will reasonably ensure the appearance of the defendant and the safety of any person or the community."

Section 9. Repealer. The following section of the Montana Code Annotated is repealed:

46-9-203. & #160; Report to county attorney concerning drug users.

Section 10. Appropriation. There is appropriated $28,000 from the general fund to the department of corrections for the biennium beginning July 1, 2017, for the purposes of funding the council as provided in [section 3].

Section 11. Notification to tribal governments. The secretary of state shall send a copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell Chippewa tribe.

Section 12. Codification instruction. (1) [Section 1] is intended to be codified as an integral part of Title 3, chapter 1, part 7, and the provisions of Title 3, chapter 1, part 7, apply to [section 1].

(2) [Section 2] is intended to be codified as an integral part of Title 44, chapter 4, part 3, and the provisions of Title 44, chapter 4, part 3, apply to [section 2].

(3) [Section 5] is intended to be codified as an integral part of Title 46, chapter 23, part 10, and the provisions of Title 46, chapter 23, part 10, apply to [section 5].

(4) [Section 6] is intended to be codified as an integral part of Title 53, chapter 1, part 2, and the provisions of Title 53, chapter 1, part 2, apply to [section 6].

Section 13. Coordination instruction. If both Senate Bill No. 63 and [this act] are passed and approved and if Senate Bill No. 63 contains a section amending 53-1-203, then the section amending 53-1-203 is void and any references in Senate Bill No. 63 to the "incentives and interventions grid adopted under 53-1-203" must be changed to the "incentives and interventions grid adopted under [section 5 of Senate Bill No. 59].

Section 14. Contingent voidness. (1) Pursuant to Joint Rule 40-65, if [this act] does not include an appropriation for the purposes of funding [section 3] prior to being transmitted to the governor, then [section 3 and section 4(1)] are void.

(2) If the appropriation in [section 10] is vetoed, then [section 3 and section 4(1)] are void.

(3) If House Bill No. 2 is passed and approved and if it does not include funding for the pretrial program established in [section 1], then [sections 1, 7, and 8] are void.

Section 15. Effective dates. (1) Except as provided in subsection (2), [this act] is effective on passage and approval.

(2) [Sections 1, 2, 7, 8, and 10] are effective July 1, 2017.

Section 16. Termination. [Sections 3 and 4] terminate June 30, 2019.

- END -

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(406) 444-3064